

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Greenbelt Division)

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In re:

GREGORY B. MYERS,

Case No. 15-26033-MCR  
(Chapter 7)

Debtor.

BRIAN KING, *et al.*,

Plaintiffs,

v.


Adv. No. 24-00007

ROGER SCHLOSSBERG, Trustee,

Defendant.


NOTICE OF FILING

DEBTA, GREGORY B. MYERS HEREBY FILES  
IN THE RECORD OF THIS CASE A COPY  
~~OF~~ THE JANUARY 3, 2023 "COURT  
TRIAL" TRANSCRIPT IN CIVIL No. 436977V,  
A COPY OF WHICH IS ATTACHED HERETO  
AS EXHIBIT "A".

  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on ~~June 30~~ <sup>JULY 1,</sup> 2025, a copy of the foregoing was furnished to the following parties:

  
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\_\_\_\_\_  
Gregory B. Myers, *pro se*



EXHIBIT "A"

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X	:	
BRIAN KING, ET AL.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil No. 436977V
	:	
SERV TRUST, ET AL.,	:	
	:	
Defendants.	:	
-----X	:	

COURT TRIAL

Rockville, Maryland

January 3, 2023



IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

-----X  
:  
BRIAN KING, ET AL., :  
:  
Plaintiffs, :  
:  
v. : Civil No. 436977V  
:  
SERV TRUST, ET AL., :  
:  
Defendants. :  
:  
-----X

Rockville, Maryland

January 3, 2023

WHEREUPON, the proceedings in the above-entitled  
matter commenced

BEFORE: THE HONORABLE DAVID LEASE, JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

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<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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For the Plaintiffs:

Brian King	36	65	81	--
Frances Wilburn	86	--	--	--

For the Defendants:

(None)

<u>EXHIBITS</u>	<u>MARKED</u>	<u>RECEIVED</u>
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For the Defendants:

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P R O C E E D I N G S

THE COURT: All right. Good morning, everyone.

MR. VERSTANDIG: Good morning.

THE COURT: Please be seated.

THE CLERK: Calling Case No. 436977V, Brian King, et al. v. Serv Trust, et al.

MR. VERSTANDIG: Good morning, Your Honor. Maurice VerStandig appearing on behalf of Brian King, Christina King, and the Christina and Brian King Children's Trust.

THE COURT: All right.

MR. VERSTANDIG: And I'm joined by Brian King, who is seated to my left.

THE COURT: All right. Good morning.

MR. PELLETIER: Good morning, Your Honor. Eric Pelletier here for 6789 Goldsboro, LLC.

MS. WILBURN: Good morning, Your Honor. Frannie Wilburn on behalf of the 6789 Goldsboro, LLC.

THE COURT: All right. Good morning.

MR. MASTRO: Good morning, Your Honor. Frank Mastro on behalf of nominal defendant, Roger Schlossberg. He's the Chapter 7 trustee of the bankruptcy estate of Greg Myers.

THE COURT: Okay. All right.

MR. VERSTANDIG: Your Honor, a preliminary matter.

THE COURT: Yes.

MS. VERSTANDIG: There are, and I don't mean this to



1 become a side opening, but there are essentially four issues  
2 that would be triable today.

3 THE COURT: Okay.

4 MR. VERSTANDIG: All of the attorneys in this  
5 courtroom concur that if my clients succeed on the first issue,  
6 which is an action for declaratory judgment with an entity  
7 known as Serv Trust as the alter ego of Gregory Brian Myers,  
8 that with due respect and deference, you would be without  
9 jurisdiction to hear the other three matters. And we would not  
10 bother you again with them. We would take them to the U.S.  
11 Bankruptcy Court to the District of Maryland and permit Judge  
12 Ruark to sift through them.

13 THE COURT: Okay.

14 MR. VERSTANDIG: Because --

15 THE COURT: Now the question I had about that,  
16 because I saw your memo this morning on the alter ego, and the  
17 two things was one is the order of abstention from the United  
18 States Bankruptcy Court was dated, I think, January 30th of  
19 2019. But your amended complaint alleging the alter ego was  
20 not filed until February 11th of 2019. So my question is, I  
21 don't see how -- I'm not sure how the order of abstention from  
22 the United States Bankruptcy Court encompasses the alter ego  
23 claim since it was not a claim in existence at the time of the  
24 abstention order from the Bankruptcy Court.

25 MR. VERSTANDIG: Yes, Your Honor. I can address that



1 fairly simply, fortunately. We had originally filed the alter  
2 ego claim as a standalone adversarial proceeding in the United  
3 States Bankruptcy Court.

4 THE COURT: Okay.

5 MR. VERSTANDIG: Which is what begat the order of  
6 abstention. After the order of abstention where the court  
7 indicated, and obviously I paraphrase, that this action was  
8 already pending. At the time it was just a declaratory  
9 judgment for redemption of the membership interest and some  
10 issues related. I will periodically today make reference to  
11 issues related to claims against Mr. Myers solely for the  
12 record. I want it to be clear, as I know everyone is, we are  
13 not pursuing any claims against Mr. Myers individually today.  
14 And any contextual references I make are merely for context.

15 But because this matter was already pending, once the  
16 Bankruptcy Court abstained, which had the effect of closing  
17 out --

18 THE COURT: Right.

19 MR. VERSTANDIG: -- that precise cause of action in  
20 that court, we then amended and brought it here.

21 THE COURT: Okay. All right. See, I don't have all  
22 the bankruptcy filings, but I did get the order of abstention.  
23 The other question I had is under, it's sort of a hybrid under  
24 the Frow doctrine, which is that when you have claim against  
25 one party, in essence are they in default or not. We can



1 debate whether they are or not in default. But under that  
2 doctrine is where somebody would have potential joint liability  
3 or liability based upon the defaulting party's liability.

4 And under the Frow doctrine, you can either one of  
5 two things. You sort of abstain from going forward because you  
6 don't want to try it twice. Or two, you can enter the  
7 judgment, but then it's a nonfinal judgment because anything  
8 that I do today in essence necessarily would be nonfinal  
9 because we're not putting all of the claims against all the  
10 parties for not getting to an adjudication. So we don't have a  
11 final judgment today under any circumstance. Now there's  
12 mechanisms by which you can request a final judgment be  
13 entered, and this may be an appropriate case, it may not be, I  
14 don't know. But that's up to -- and then the Appellant Courts  
15 often times second guess, and I've seen us reversed more times  
16 than not by certifying the final judgment when in fact the  
17 Special Appeals says you really shouldn't do that because you  
18 don't want piecemeal litigation. So I'm trying to sort of  
19 figure out how I deal with that.

20 And then the other issue that I had a concern about  
21 was the alter ego claim. Seems to be the one that would be  
22 most closely aligned with potential liability for Mr. King in  
23 the sense that, I think under paragraph 80 of your finding --  
24 or of your amended complaint, you state that "his expenditures  
25 of monies belonging to Serv Trust is a form pattern habit of

1 gross breach of his fiduciary duties as trustee." Which would  
2 in essence mean that I'd have to make a finding that he  
3 breached his duties as a trustee, which could potentially be --  
4 the concern would be used in a claim by any beneficiary of the  
5 trust to say he breached his fiduciary duties to me, so.

6 MR. VERSTANDIG: So Your Honor, I think I can address  
7 that in two parts. And if it's okay with you, I'll take the  
8 latter --

9 THE COURT: Okay. Sure.

10 MR. VERSTANDIG: -- first and the former second. The  
11 existence of parallel bankruptcy estates creates some  
12 admittedly bizarre legal constructs.

13 THE COURT: Yes. I don't even know how that's  
14 possible. I don't know how there's still a bankruptcy. I was  
15 looking to see that the Florida bankruptcy would have ceded to  
16 the Maryland bankruptcy that's still pending from what I see.

17 MR. VERSTANDIG: There are two --

18 THE COURT: I mean, I first thought that Maryland had  
19 been just closed out and that his discharge was disallowed and  
20 was closed. And then you would've had the second bankruptcy in  
21 Florida where I guess Mr. King now purportedly resides.

22 MR. VERSTANDIG: So I'm actually normally a  
23 bankruptcy attorney, and without geeking out on eccentricities  
24 of circuit splits --

25 THE COURT: I did my fair number of adversarial





1 proceedings, but I never was a bankruptcy guy. I didn't do  
2 like -- I would only litigate in adversary proceedings.

3 MR. VERSTANDIG: There is a two-estate doctrine.  
4 Obviously without litigating in front of you or it belonged to  
5 the courts, I would respectfully suggest that in many courts in  
6 many circuits, the second case probably would've been properly  
7 dismissed. That's obviously not what happened.

8 THE COURT: Right. Okay.

9 MR. VERSTANDIG: But I think the posture of the two  
10 cases will answer your second question. The Chapter 7 case in  
11 Maryland was filed as a Chapter 11 case and then converted to  
12 Chapter 7. All of that happened before the Chapter 13 case was  
13 filed in Florida.

14 THE COURT: Right.

15 MR. VERSTANDIG: Which means that on the date that  
16 the Chapter 11 relief was entered, and then on the date of  
17 conversion to Chapter 7, a unitary estate was created. And  
18 upon conversion of Chapter 7, that unitary estate vested in Mr.  
19 Schlossberg as Mr. Myers' bankruptcy trustee. At no point  
20 since is there any contention that Mr. Schlossberg has  
21 abandoned or otherwise disposed of the assets of that estate.  
22 So when Mr. Myers then went down and filed in Florida several  
23 years later, he had not regained legal or equitable --

24 THE COURT: I read your argument.

25 MR. VERSTANDIG: Yes.



1 THE COURT: So I understand it, I just -- it's one of  
2 those -- I hate having one side of an argument, so.

3 MR. VERSTANDIG: I appreciate.

4 THE COURT: Yes.

5 MR. VERSTANDIG: Look, it's eccentric. I'm happy to  
6 recognize that. But I would say that because of that, any  
7 claims against Mr. Myers that are related to the findings that  
8 may or may not be reached today would necessarily be  
9 jurisdictionally vested in the Maryland Bankruptcy Court, which  
10 is the court that has issued the order of abstention. I would  
11 also say to whatever extent there are any reservations about  
12 the Florida bankruptcy court's cognizance of what we plan to do  
13 today, the exercise that was carried out over the past 96 hours  
14 where this matter --

15 THE COURT: I'm going to just tell you, I just got an  
16 email from -- my chambers just got an email from Mr. Myers.  
17 It's purported copied to you all. I don't know if you saw it.  
18 But it's an email from 9:37, so I doubt you've seen it since  
19 you've been talking to me. He says that in response to the two  
20 orders of remand by the United States Bankruptcy Court for the  
21 Middle District of Florida a short time ago, he claims they're  
22 not final and that both orders were appealed to the United  
23 States District Court for the Middle District of Florida, part  
24 of 9:38 a.m. on January 3, 2023. So he said he has now  
25 appealed the remand.



1 MR. VERSTANDIG: Your Honor, without litigating in  
2 front of you issues that I imagine I won't end up litigating in  
3 Tampa, Florida, where I --

4 THE COURT: I understand. I'm just concerned now if  
5 it's a nonfinal, is the remand stayed. I mean, that's what I'm  
6 trying to figure out.

7 MR. VERSTANDIG: So I would argue no for two reasons.  
8 One, I think the punitive nonfinality is actually belied by,  
9 and obviously I haven't seen the email, I just --

10 THE COURT: No.

11 MR. VERSTANDIG: -- know what you shared with us, but  
12 it's belied by the appeal. I'm not sure how Mr. Myers could  
13 appeal a nonfinal order without leave of the trial court, in  
14 this case being the U.S. Bankruptcy Court for the Middle  
15 District of Florida. And two, looking at the motion for remand  
16 and the orders that were entered in the two matters early this  
17 morning by the Florida Bankruptcy Court, I would argue it is  
18 contextually quite evident that the Florida Bankruptcy Court  
19 intends for us to proceed. And the reason we requested  
20 emergency relief, and a point in fact is we were able to get a  
21 ruling on an emergency motion without so much as a single  
22 business hour elapsing between when the emergency remand was  
23 requested and when the order was handed down, is because the  
24 exigency created by everyone's intent to move forward in your  
25 court today.



1 THE COURT: Right.

2 MR. VERSTANDIG: I would also say in terms of the  
3 nonfinality of any order, there's probably two means through  
4 which that can be addressed. And I'll huddle with counsel. I  
5 don't want to put the cart in front of the horse. We would  
6 probably do so shortly after you ruled. The two cognizable  
7 means that immediately come to mind are one, we can ask you, as  
8 you intimated, to certify something as a final order. But two,  
9 depending on how you rule, and certainly I do not feign to take  
10 anything for granted going to today, I think there's a very  
11 real universe where if Serv Trust is found to be Mr. Myers'  
12 alter ego, we would then -- and I do not speak for Ms. Wilburn  
13 or Mr. Pelletier -- there's a very real universe where we would  
14 then happily dismiss all extent claims. Mr. Myers does not  
15 have any affirmative claims in this case. We do not need him  
16 to join us in consenting to a dismissal of all of the other  
17 matters that pend. We would do so without prejudice so that  
18 they may be appropriately raised in the Bankruptcy Court, and  
19 then we would have ourselves a final order just a few moments  
20 after you signed it.

21 THE COURT: Well, the other thing is I'm not hearing  
22 that there's any stay that was issued by the Bankruptcy Court  
23 or by the Middle District of Florida. And so unless you all  
24 hear of a stay, then you need to let me know. But I think  
25 generally I agree with you. It's likely to be a final order,

1 it's been appealed, but an appeal does not necessarily stay --

2 MR. MASTRO: Right.

3 THE COURT: -- in the line of order.

4 MR. MASTRO: Right.

5 THE COURT: What it could do is this could all be  
6 moot if the Appellate Court decided that it was going to  
7 reverse the Bankruptcy Court, so. And I know you wanted to say  
8 something for a while, so I'm happy to from you.

9 MR. MASTRO: Yes. Again, Frank Mastro on behalf of  
10 the bankruptcy trustee in Maryland. I agree wholeheartedly  
11 with everything Mr. VerStandig is saying. I'll just add  
12 additionally that the order of remand refers to the arguments  
13 raised by Mr. VerStandig in his remand motion, one of which was  
14 remand on equitable grounds, which are made expressly  
15 nonappealable under the applicable statute. So in addition to  
16 the order being purportedly not final in Florida, the grounds  
17 make it expressly nonappealable.

18 THE COURT: Right. Because, I mean, the  
19 bankruptcy --

20 MR. MASTRO: And as Your Honor just pointed out, that  
21 was my other point I was going to make was that there's no stay  
22 in effect.

23 THE COURT: Right.

24 MR. MASTRO: So we don't see any reason from the  
25 bankruptcy trustee's perspective, anyway, that this proceeding



1 can't proceed today.

2 THE COURT: Okay.

3 MR. MASTRO: I mean, his bankruptcy estate's been  
4 open for over seven years and we really want to get a  
5 resolution.

6 THE COURT: I know. I see my friend, Judge Lipp, was  
7 the original judge on this. So the order of abstention also  
8 doesn't note that any issues with respect to the stay can be  
9 litigated in this court. Because one of the things that when I  
10 was looking at the abstention order, it says so numeral factors  
11 from the discretionary abstention applies as stated by -- oh,  
12 it states the Glass v. Glass case where "the state court may  
13 not grant relief from the stay. This matter is committed  
14 exclusively to the Bankruptcy Court. But it may when presented  
15 with an issue to determine whether factually or legally a stay  
16 is in effect and whether a particular action is about to take  
17 or as already taken is subject to a stay."

18 So it says here, "There's no need for the Bankruptcy  
19 Court to wait in the State litigation, the state court has been  
20 presiding over litigation for a while." And we get in bits and  
21 spurts and then it stops. So it says that the state court  
22 determines the Government's stay is applicable based on the  
23 relationship between the debtor and Serv Pro [sic], then the  
24 matter will be stayed and the parties can come back to this  
25 court to figure out how to proceed.

1           So it sort of punted this -- even the issue is to  
2 whether -- and all I'll say is really I actually thought we  
3 were going to go forward on your Count I today, their count  
4 against Serv Pro [sic] and that we weren't going to go forward  
5 on the alter ego because of the close relationship between the  
6 parties. And that I didn't know if the alter ego got you  
7 anything. Certainly doesn't seem to get you more of anything  
8 in a sense that Count I gets you, if you're successful on that,  
9 the redemption of the rights from Serv Pro [sic], and then  
10 really then you're sort of done. And then their claim is  
11 against Serv Pro [sic] for the amount due on the notes. And if  
12 they're successful, I think that can be litigated without  
13 affecting Mr. Myers, basically, under a Frow doctrine.

14           The reason that sort of I would go forward on their  
15 claim today, as opposed to the waiting until the defaulting  
16 parties, because I don't know when and if Mr. Myers would ever  
17 be subject to determination in this court depending on what the  
18 Bankruptcy Courts decide. They could modify the claims or  
19 reduce the claims. And I understand that in the Maryland Court  
20 that the -- I guess I'm looking for the word, it's escaping me  
21 at the moment -- discharge was denied or revoked. I guess it  
22 was a discharge and then it was subsequently taken back. So I  
23 would have to think about the alter ego claim. What I'm going  
24 to propose we do, just so we don't waste everybody's time, is  
25 why don't we put on evidence of all of it. And then I'll think

1 about whether or not -- because I do think, and I'll ask the  
2 trustee's counsel. Under the order of abstention, if I am to  
3 decide whether or not the estate would apply to the altered ego  
4 claim that was not decided in the Bankruptcy Court, the way I  
5 read the abstention order. I'm just asking if the trustee has  
6 any thoughts on that.

7 MR. MASTRO: I mean, the --

8 MR. VERSTANDIG: I have but one sentence, and then  
9 I'll sit down --

10 MR. MASTRO: Yes. I mean, the --

11 MR. VERSTANDIG: -- shut up, I promise.

12 THE COURT: Okay.

13 MR. VERSTANDIG: I believe, and obviously I'm reading  
14 into Judge Lipp's language.

15 THE COURT: Right.

16 MR. VERSTANDIG: I believe the determination of the  
17 applicability of the stay is synonymous with the existence of  
18 the alter ego relationship, and the two are legally  
19 coterminous. If it is an alter ego, the stay applies for all  
20 other purposes and we return to the Bankruptcy Court.

21 THE COURT: All right.

22 MR. VERSTANDIG: If it is not an alter ego, the stay  
23 applies for no other purposes understanding the monetary claim  
24 is stayed by virtue in Florida Bankruptcy and we go forward in  
25 your court. But you did not direct that to me and --





1 THE COURT: Okay.

2 MR. VERSTANDIG: -- I mean no disrespect.

3 THE COURT: All right.

4 MR. MASTRO: Yes. And my understanding is that with  
5 respect to the Maryland Bankruptcy, there is no stay in effect  
6 as to the alter ego because of the order of abstention saying  
7 you need to go litigate this in state court. To the extent  
8 there was any sort of stay in Florida, that's been lifted.

9 THE COURT: Right. But I would agree then, yes. But  
10 I was troubled by the language in the stay order, which says a  
11 state court has concurrent jurisdiction with the Bankruptcy  
12 Court to determine the applicability of the automatic stay, and  
13 then goes on to cite the Glass case and says basically if I  
14 determine that the stay applies, then I send it back to the  
15 Bankruptcy Court to determine what happened. Which to me is,  
16 I've never really seen that in a abstention order.

17 MR. MASTRO: And I think the posture of these cases  
18 was a lot different, what is it, five years ago, 2017, 2018,  
19 that order?

20 THE COURT: 2019, yes.

21 MR. MASTRO: 2019. So I'm not sure off the top of my  
22 head what the posture of the case was at that time where  
23 possibly there could've been something here to litigate in  
24 terms of does the stay apply or not. It may be does the stay  
25 apply as to the other claims besides the alter ego.

1 THE COURT: Okay. I mean, yes, that's what I said  
2 it's --

3 MR. MASTRO: So and to the extent he was making that  
4 argument at that time, and again, it's been so many years, Your  
5 Honor, I don't recall off the top of my head.

6 THE COURT: Uh-huh.

7 MR. MASTRO: Well, was he making an argument that the  
8 stay applies to these other claims back in 2019? I don't know  
9 off the top of my head.

10 THE COURT: Okay. All right. And dealing with the  
11 alter ego, I mean, Maryland's probably the worst state to try  
12 to push forward an alter ego argument given the fact that the  
13 court says you still have to prove fraud or the paramount  
14 equity even in an alter ego situation and the paramount equity  
15 has been defined as fraud. So I'm still waiting for the case  
16 that ever comes out and says, well, there's not fraud here, but  
17 there's a paramount equity. And I understand that you may be  
18 actually alleging fraud in a certain extent. Certainly,  
19 fraudulent conveyance, and so forth, is sort of at the heart of  
20 the allegations.

21 MR. VERSTANDIG: Your Honor, to go to what you said a  
22 moment ago. I know we're all prepared to proceed on all of the  
23 causes of action today.

24 THE COURT: Uh-huh.

25 MR. VERSTANDIG: I enjoy this colloquy more than I



1 probably give off because I find this fascinating. But at the  
2 same time --

3 THE COURT: Let's get going.

4 MR. VERSTANDIG: -- maybe there's some sense in  
5 putting on some evidence.

6 THE COURT: Yes.

7 MR. VERSTANDIG: And then in closing, we can have --  
8 I mean, there's really, it's not even a chicken and egg so much  
9 as a chicken eating an omelet for breakfast, and we can try to  
10 figure out where that all falls.

11 THE COURT: Okay. Sounds fine to me. All right. So  
12 who wants, I guess my understanding was the King defendants  
13 were going to go first, or do you want to put the note on  
14 first?

15 MR. VERSTANDIG: Your Honor, if I can -- we'll go  
16 first.

17 THE COURT: Okay.

18 MR. VERSTANDIG: I'll give a brief opening with your  
19 blessing. And then as is probably manifest, I do intend to put  
20 Mr. King on the stand. And there are some exhibits in front of  
21 you that we're going to try to find our way into evidence.

22 JUDGE'S RULING

23 THE COURT: All right. And why don't you just do a  
24 little bookkeeping. There was a motion to recuse me that was  
25 filed. And I did get your motion to stay every other motion

1 that was pending. I agree with you on everything but the  
2 recusal. I think that since I have to potentially decide an  
3 issue about the stay potentially from the order of abstention,  
4 that as far as you would have at least standing to complain  
5 about me hearing the case, I have looked at his motion, I've  
6 looked back I think about a year ago. He orally made the same  
7 motion. The motion is based upon my affiliation with the firm  
8 of Gordon Feinblatt between the years of 1991 and 1997.  
9 Frankly, if Mr. Myers had not raised the fact that Gordon  
10 Feinblatt has some connection, which I'm still not even sure  
11 exactly what it is, I wouldn't have been aware of it. But  
12 certainly I've had attorneys from Gordon Feinblatt actually  
13 appear and represent parties before the Court in litigation  
14 given the amount of time, which would now be close to 25 years,  
15 probably more than 25 years, that I have no problem hearing the  
16 case. I don't believe that it would affect my ability to be  
17 fair and impartial in the case.

18 Therefore, I am going to deny the motion for recusal  
19 for a second time in this matter. With respect to, there was  
20 an order or motion filed to -- this is bookkeeping from my  
21 clerk here. Shoot, what did I do with that? All right.

22 So there's the King parties filed a motion to hold  
23 the debtor's pending motions in abeyance pending termination of  
24 the automatic stay. That was joined by 6789 Goldsboro, LLC.  
25 So I'm going to grant that motion with the exception of the

1 motion for recusal, which I have denied. All right.

2 MR. PELLETIER: Your Honor, before we get off to the  
3 races --

4 THE COURT: Sure.

5 MR. PELLETIER: -- this is Eric Pelletier for the  
6 record. I just wanted to clarify the order of operations here.  
7 Are we going to do opening statement, opening statement, his  
8 evidence, my evidence, just keep it going because --

9 THE COURT: Yes. Let's just do that.

10 MR. PELLETIER: Okay. To that end, Mr. VerStandig's  
11 exhibits end at No. 22. I don't have tabs from 23 up, but I  
12 can mark them with a plaintiff's exhibit sticker.

13 THE COURT: Okay. That's fine.

14 MR. PELLETIER: Okay.

15 THE COURT: You shouldn't have that many I wouldn't  
16 think.

17 MR. PELLETIER: I have like four.

18 THE COURT: Yes. I was going to say.

19 MR. PELLETIER: Thanks.

20 THE COURT: Okay. All right. So if you want to give  
21 an opening, I'm happy to hear you.

22 OPENING STATEMENT BY MAURICE VERSTANDIG, ESQ.

23 ON BEHALF OF PLAINTIFFS

24 Thank you, Your Honor. And I will try to trim this  
25 down because I think some of it may be redundant to what was



1 just discussed.

2 THE COURT: Okay.

3 MR. VERSTANDIG: But at core, there are three  
4 questions that will come before the Court today as it concerns  
5 my clients. I think that Mr. Pelletier and Ms. Wilburn have a  
6 separate client with a separate interest, albeit a related one.

7 The first question is whether or not Serv Trust was  
8 Mr. Myers' alter ego at the time he sought bankruptcy relief in  
9 2015. The second question is whether or not the King parties,  
10 which is going to be the colloquial reference to Brian King,  
11 Christina King, and the Christina and Brian King Children's  
12 Trust, have properly exercised the redemption mechanism under  
13 the amended and restated operating agreements of 6789  
14 Goldsboro, LLC to redeem the class B interests therein we  
15 maintain formerly held by Serv Trust.

16 And then the third question I would imagine is going  
17 to be the least advocated today given the absence of a lawyer  
18 for Serv Trust, but Serv Trust has counterclaims in this  
19 matter. The counterclaims allege myriad things that we  
20 maintain to be fantastically and whimsically imaginative, but  
21 that bear no resemblance to this universe or even close  
22 parallel thereto. And --

23 THE COURT: With respect to the counterclaims, I  
24 mean, there's not going to be any evidence presented.

25 MR. VERSTANDIG: Right.





1 THE COURT: So I would imagine at the close of the  
2 case you can ask for a motion on that.

3 MR. VERSTANDIG: Yes, Your Honor.

4 THE COURT: And so that's how I anticipated that we  
5 would deal with those claims. I know there was summary  
6 judgment motions filed, and I understand what their claims  
7 were, but without evidence in court, and since they have not  
8 either appeared or appeared by counsel here today, then we'll  
9 dispose of those at the appropriate time.

10 MR. VERSTANDIG: Thank you, Your Honor. Your Honor,  
11 by way of background, what the evidence is going to show, and  
12 it certainly seems you have read this file in great detail and  
13 we appreciate that you seem to know this better than we often  
14 encounter when we come to judges for the first time, second  
15 time, and so on and so forth, is that Gregory Myers found  
16 himself in a situation where he needed money. And I'll  
17 reiterate what I said earlier. There's going to be a lot of  
18 references to Mr. Myers today. None of them are in furtherance  
19 of any claims for monetary relief against him initially.

20 Mr. Myers needed money in general and Mr. Myers found  
21 a property at 6789 Goldsboro in Bethesda, Maryland, that he  
22 thought could be profitably developed, but he lacked the  
23 resources to acquire it. And through various circumstances he  
24 was introduced to Mr. King, and they agreed that on negotiated  
25 terms, which will be reflected in the record, they would move

1 ahead with Mr. King and his family putting up, when I say the  
2 lion's share of the capital, I mean to the extent that what  
3 came out of Mr. Myers' camp is statistically de minimis in  
4 nearly every regard.

5           And a bargain was inherent in all of this. Mr. King  
6 and his family would put up almost all of the money. In fact,  
7 as soon as they closed on the acquisition of the property, the  
8 \$6,000 and some odd dollars that had been put up by Serv Trust,  
9 which I'll get to in a moment, would be dwarfed by a \$300,000  
10 distribution from the company to Serv Trust to fund Mr. Myers'  
11 lifestyle. And in exchange for the King parties putting up all  
12 the money to acquire the property to pay lawyers to investigate  
13 the development of property, architects to investigate the  
14 development of the property, engineers to work on the project,  
15 and so on and so forth, they would have the class A membership  
16 interest in this entity, and Serv Trust would have the class B  
17 membership interest.

18           And under the terms of the operating agreement, there  
19 would be a period of three years. And if at the end of those  
20 three years the property had been sold, money would be divided  
21 up accordingly. And if at the end of three years, the property  
22 appraised for more than the cumulative capital contributions of  
23 the King parties to date, they're willing to go forward  
24 accordingly, that would mean that Mr. Myers as the finder, who  
25 became the manager of 6789 Goldsboro and was chiefly in charge



1 of its development using the financing of the King parties, had  
2 been successful in creating value, then everyone would go  
3 ahead. But if at the end of three years, or anytime  
4 thereafter, the property appraised for less than the cumulative  
5 capital contributions of the King parties, Serv Trust and trust  
6 would be redeemed, and they'd be deemed for no consideration.

7           And in essence, this was a great deal for Mr. Myers.  
8 He had no money, nothing to put up, and get \$300,000 minus the  
9 \$6,000 and change, as soon as closing occurred, and Mr. King  
10 was giving him the opportunity. If you can make this a  
11 profitable project, you're going to end up owning half of it,  
12 you'll get half the proceeds, and everything is wonderful. And  
13 if not, you get \$300,000 for your trouble, which is not bad for  
14 three years of work, I might add. And if it doesn't work out,  
15 I, meaning Mr. King and his family, have borne the entirety of  
16 the financial obligations other than \$6,000 and change, and we  
17 will redeem the interest and do what we can today and get out  
18 of this project.

19           And low and behold, the three years came and went,  
20 and on the third anniversary, Mr. King did nothing. Kept  
21 giving Mr. Myers a chance. Believed that Mr. Myers might  
22 actually be making good progress. And they marched forward and  
23 they marched forward, but finally, and the evidence will show  
24 this in some detail, Mr. Myers endeavored to defraud Mr. King,  
25 Christina King, and the Christina and Brian King Children's



1 Trust. And at that point, Mr. Myers was ousted as manager and  
2 the redemption mechanism was triggered, and it was triggered in  
3 accord with the operating agreement with a demand being sent to  
4 Serv Trust and an appraiser being timely appointed. That  
5 appraiser conducted an appraisal, you will see that appraisal  
6 in the record. The appraisal puts the property value between  
7 of \$1 million and \$1.35 million at that moment in time.

8           The King parties' class A contributions toward the  
9 project were close to, if not in excess, of \$3 million at that  
10 point in time. And thusly, Serv Trust had its interests  
11 redeemed. Now Serv Trust had the option to appoint a counter  
12 availing appraiser to get someone to go out and look at it, of  
13 Serv Trust's choosing, to be paid by Serv Trust, and to say no,  
14 it's worth 5 million, it's worth 10 million, whatever a  
15 certified appraiser may do. Serv Trust did not exercise that  
16 option. And we know that Serv Trust got the King parties'  
17 demand because we have a response from Mr. Myers in his  
18 capacity as trustee of Serv Trust acknowledging receipt  
19 thereof, which will be part of the record today.

20           Now let's take a step back and talk about Mr. Myers  
21 and Serv Trust and what the record will show there. The record  
22 will show that Mr. Myers put this investment project in the  
23 name of Serv Trust because he was enmeshed in litigation in  
24 myriad jurisdictions, had not paid a mortgage in a great many  
25 years, and was financially insolvent by every measure and



1 almost certainly destined for bankruptcy when he found us. He  
2 used Serv Trust to move money to himself and to his wife,  
3 Barbara Ann Kelly, for almost -- and I will emphasize the word  
4 almost because there are some exceptions -- almost exclusively  
5 the benefit of himself and his wife.

6           And at first it is evident that the project was  
7 placed in the name of Serv Trust so that it would not be an  
8 asset of Mr. Myers' collectable, sizable, garnishable or  
9 otherwise speakable by any of his creditors. And then that  
10 took on a very real form when Mr. Myers sought bankruptcy  
11 relief. And when Mr. Myers was in bankruptcy, he was initially  
12 a debtor in Chapter 11. That is the ultimate open kimono  
13 construct. Everyone gets to see just about everything, its  
14 monthly operating reports. So how could he hide vast monies  
15 that he needed to go on and pursue a lifestyle that involved  
16 country clubs, leisure and vexatious pursuits? By constantly  
17 using Serv Trust as his alter ego.

18           And time and again, he went to Mr. King, and for  
19 reasons that were clearly personal to Mr. Myers, his desire to  
20 pay country club dues, his desire to pay his own lawyers, his  
21 desire to put monies into the registry of a court in a case in  
22 which he is personally a party, he asked that 6789 Goldsboro  
23 loan funds to Serv Trust. And what the record will show is  
24 that 6789 Goldsboro time and again loaned those monies, you'll  
25 hear about that from Mr. Pelletier and Ms. Wilburn. And almost

1 as soon as those monies were in Serv Trust, out they went to  
2 Mr. Myers and Ms. Kelly.

3 Now I said almost, but I want to emphasize it in the  
4 interest of candor. There are a handful of expenses that were  
5 clearly for the benefit of Mr. Myers' children. We can't deny  
6 that some monies were used to benefit his children. But  
7 ultimately, it is a pittance of the vast sums of money that  
8 went in and out of Serv Trust. And that is what guides a lot  
9 of the alter ego issues that we'll be presenting today.

10 So Your Honor, we believe the evidence is going to  
11 show that under the operating agreement the redemption  
12 mechanism was properly exercised, and that if you choose to  
13 rule on that matter, you will find that Serv Trust is no longer  
14 a member of 6789 Goldsboro, LLC, and that the only members, and  
15 we ask the Court to enter a declaratory judgment, are Mr. King,  
16 Ms. King, and the trust for the benefit of the children. If  
17 you choose to rule on the alter ego issue, and to some degree  
18 we respectfully submit, it may be mutually exclusive at the  
19 close of evidence. I think you're going to be constrained to  
20 one or the other.

21 We believe the evidence will show that Mr. Myers  
22 exercised complete dominance over Serv Trust. That that  
23 dominance was used to propagate harms to the detriment of his  
24 creditors, including his bankruptcy trustee who's represented  
25 by counsel in your court today, and that actual harms were in



1 fact perpetrated because the assets of Serv Trust were thusly  
2 not made available to his bankruptcy estate and not made  
3 available for distribution to his creditors or negotiations  
4 through the operation of the entity. And that is why Mr.  
5 Myers' first bankruptcy trustee is represented by counsel in  
6 your courtroom today. We understand this is an unusual case.  
7 We understand it comes with a lot of baggage and a lot of  
8 years. We appreciate your time, and we look forward to putting  
9 on our evidence.

10 THE COURT: All right. Thank you.

11 OPENING STATEMENT BY ERIC PELLETIER, ESQ.

12 ON BEHALF OF THE DEFENDANTS

13 Good morning, Your Honor. Eric Pelletier here for  
14 6789 Goldsboro, LLC, with Ms. Wilburn, of course. And I can  
15 just tell you I'm going to be brief and I will be nowhere near  
16 as eloquent. I have a far more simple case, and I have the  
17 benefit of piggybacking off of Mr. VerStandig's case which, and  
18 I don't disagree with his opening. Ms. Wilburn and I represent  
19 6789, which I may refer to it as. We have two claims; they're  
20 both being presented against Serv Trust. And just for the  
21 record, we are not proceeding against Mr. Myers here today.  
22 Count I is a breach of contract claim for a promissory note.  
23 Count III is a promissory estoppel claim for which we're only  
24 proceeding against Serv Trust.

25 It'll be very clear when you receive the note, it's a





1 very simple claim, and we've already pointed out that I'm only  
2 going to have a few exhibits, that the promissory note, the  
3 maker and the borrower was Serv Trust. The holder was 6789  
4 Goldsboro Road, LLC. The note covers both prior advances,  
5 which the note memorializes, and allows for future advances to  
6 be made. You will see evidence today, a tally sheet that Mr.  
7 King has kept during the course of the loans and has kept  
8 current, that the total loan was \$635,000 under the promissory  
9 note. The interest under the note provided, in the note itself  
10 is 10 percent, which through January 1st I think it was,  
11 totaled to \$499,937.50. The total due, principle and interest,  
12 under the note will be shown to be \$1,264,737.76. Added to  
13 that, there are attorney's fees provided in the note. The  
14 attorney's fee total, as of these many years of litigating, is  
15 \$129,826. And of course, you'll see from the bills, that  
16 includes 4As and Bankruptcy Court, so on and so forth.

17 And then comes the other issue, which is the  
18 promissory estoppel issue, which Mr. VerStandig actually  
19 referred to in his opening in passing. And that is the  
20 \$300,000. The initial advance was \$300,000, not covered  
21 specifically within the promissory note, but the understanding  
22 was that Mr. Myers would take the money, make good on it, they  
23 would do the reconciliation of the sort that Mr. VerStandig  
24 explained during his opening statement, and at the end, the  
25 \$300,000 would come back to 6789, and that was why the loan was





1 made at the get-go to start off this whole adventure. That  
2 will be our case. It's going to be very simple.

3 THE COURT: Why wasn't the 300,000 included in the  
4 note?

5 MR. PELLETIER: It came before the note and it wasn't  
6 included, and we can go into that with Mr. King.

7 THE COURT: Okay.

8 MR. PELLETIER: But my understanding was it was  
9 considered an initial distribution to come back out and be  
10 repaid after the project became successful, which ultimately it  
11 didn't because of stonewalling, and so on, of Mr. Myers.

12 THE COURT: I mean, isn't that just a definition of a  
13 loan?

14 MR. PELLETIER: It is a loan.

15 THE COURT: I mean, if you're saying it's not a  
16 capital -- or distribution.

17 MR. PELLETIER: Frankly, it is effectively a loan.  
18 It was supposed to be paid back.

19 THE COURT: Okay.

20 MR. PELLETIER: It was supposed to be reconciled at  
21 the end. It wasn't free money. It wasn't a gift to Mr. Myers.

22 THE COURT: Okay.

23 MR. PELLETIER: It was a comeback.

24 THE COURT: All right. So then you do disagree with  
25 what counsel said, because he said at the end of the day he was

1 going to get the \$300,000.

2 MR. PELLETIER: Well, I think that's a minor  
3 disagreement.

4 THE COURT: Okay.

5 MR. PELLETIER: He said he was going to get it before  
6 the project was effectively stonewalled when Mr. Myers not  
7 doing anything he was supposed to do under the operating  
8 agreement, not pursuing the property valuation, so on and so  
9 forth.

10 THE COURT: Okay. My understanding was that the big  
11 problem was he didn't get the subdivision numbers that you were  
12 looking for from the county I would guess. The overall goals  
13 for all the -- what are we looking for, 16 units? I may have  
14 the number wrong.

15 MR. PELLETIER: Right.

16 THE COURT: But it's the number of units that you  
17 were trying to get.

18 MR. VERSTANDIG: Nineteen.

19 MR. PELLETIER: Yes.

20 THE COURT: Thirty-two, all right. I had it in half  
21 so.

22 MR. VERSTANDIG: Nineteen, you were close.

23 THE COURT: Nineteen. Okay, 19. So they were  
24 looking for 19, and you just didn't get that approval. And  
25 then that really was, to me, is at least what I thought was the



1 big problem was that at that point then the project wasn't  
2 going to be profitable given the outlays of that.

3 MR. PELLETIER: Well then there was no opportunity  
4 for the valuation process to go forward after that because Mr.  
5 Myers sat on his hands.

6 THE COURT: Right. I got you. All right.

7 MR. PELLETIER: Thank you, Your Honor.

8 THE COURT: All right. I'm going to ask the counsel  
9 for the trustee if you have any --

10 MR. MASTRO: No. We have --

11 THE COURT: -- information.

12 MR. MASTRO: We have no position.

13 THE COURT: All right. All right. So call your  
14 first witness, or go through it any way you want.

15 MR. VERSTANDIG: Your Honor, we call Brian King, but  
16 I think we're going to do a couple of things to make this a  
17 little bit shorter --

18 THE COURT: Okay.

19 MR. VERSTANDIG: -- given how we're postured today.

20 THE COURT: All right. Mr. King, he can testify from  
21 counsel table --

22 MR. VERSTANDIG: Excellent.

23 THE COURT: -- if he likes. That way he can look at  
24 documents. There's nobody -- there's no jury here or anything.  
25 And actually, I get a better view of him from here than I do



1 from on the stand.

2 THE CLERK: Do you want me to swear him in?

3 THE COURT: Yes. If you could stand and raise your  
4 right hand, please.

5 THE CLERK: Thank you.

6 THE COURT: All right. Sir, you can have a seat and  
7 make yourself comfortable. Counsel, you may proceed.

8 MR. VERSTANDIG: Thank you. Your Honor, I don't want  
9 to be abusive of the fact that there's no opposing counsel, but  
10 in the interest of streamlining things, we have marked 22  
11 exhibits that have been handed to Your Honor with the copies  
12 also handed to the clerk of the Court. They're each marked 1  
13 through 22. At this time, the King parties move the admission  
14 of Exhibits 1 through 22.

15 THE COURT: All right. They'll be no objection  
16 obviously, so I'll go ahead and I'll admit the Exhibits 1  
17 through 22 at this time.

18 MR. VERSTANDIG: Thank you, Your Honor.

19 (The documents marked for  
20 identification as Plaintiff's  
21 Exhibit Nos. 1 through 22 were  
22 received in evidence.)

23 BRIAN KING

24 the plaintiff, having been first duly sworn, was examined and  
25 testified as follows:





1 DIRECT EXAMINATION

2 BY MR. VERSTANDIG:

3 Q Mr. King, please state your name for the record.

4 MR. VERSTANDIG: Your Honor, is it okay if I sit --  
5 keep sitting?

6 THE COURT: You can have a seat if you would like.

7 MR. VERSTANDIG: Thank you. It seems awkward  
8 hovering over my client.

9 THE COURT: Okay.

10 THE WITNESS: Brian King.

11 BY MR. VERSTANDIG:

12 Q And Mr. King, what's your business address?

13 A 3925 Beech Avenue, Suite 100, Baltimore, Maryland,  
14 21211.

15 Q Mr. King, what is it that you do for a living?

16 A I own property, have a property management company,  
17 and have developed properties in the past.

18 Q Do you have any relationship with the entity known as  
19 6789 Goldsboro, LLC?

20 A Yes. It's an entity that I went into to develop the  
21 land.

22 Q Okay. And are you a class A member of that entity?

23 A I am a class A member.

24 Q Okay. And are the other class A members your wife,  
25 Christina King, and the Christina and Brian King Children's



1 Trust?

2 A That is correct.

3 Q Okay. And was there previously, and I understand  
4 this is one of the issues we're litigating today, a class B  
5 member?

6 A Yes.

7 Q Okay. And that was an entity that at least had held  
8 itself out as Serv Trust, correct?

9 A That is correct.

10 Q Okay. So let's talk about 6789 Goldsboro. May I  
11 assume that there is a piece of property located at 6789  
12 Goldsboro Road?

13 A Yes. It's a single-family property that sits on  
14 five-and-a-half acres.

15 Q And when did you first learn about the existence of  
16 this property?

17 A I learned about it in 2013.

18 Q And how is it that you learned about it?

19 A Through the trustee of my trust. He let me know that  
20 he had an acquaintance that was looking for an investor in a  
21 development property. And at that time, I was looking for  
22 additional investments.

23 Q Now, you said the trustee of your trust. I want to  
24 just be careful for purposes of the record. Is that a  
25 reference to the Christina and Brian King Children's Trust?



1 A Yes. He's trustee of the King Trust, yes.

2 Q Okay. And who was the acquaintance of your trustee?

3 A Timothy Lynch.

4 Q Was he the acquaintance or was he the trustee?

5 A Oh, I'm sorry. The trustee was Greg Myers. I mean,  
6 sorry.

7 Q Let's try this again. The Christina and Brian King  
8 Children's Trust, was Timothy Lynch a trustee of that trust?

9 A Yes, he was.

10 Q All right. And is he the individual who introduced  
11 you to an acquaintance of his?

12 A He is.

13 Q All right. And was that acquaintance of his Gregory  
14 Myers?

15 A It is.

16 Q Okay.

17 A Thank you.

18 Q At the time, did Mr. Myers share with you that he was  
19 going through anything or experiencing any issues?

20 A When we met, I understood that he was having some  
21 financial problems. He let me know that personally as we were  
22 going into this investment. But I saw the opportunity in the  
23 investment, so we moved forward. And at that point, the  
24 financial problems didn't seem to be that elevated. I didn't  
25 understand the extent of it at that time.



1 Q Okay. Now Mr. King, did the investment, as you moved  
2 forward, proceed in Mr. Myers name or proceed in someone else's  
3 name?

4 A The investment proceeded in Serv Trust as the 50  
5 percent capital class B shareholders.

6 Q And did Mr. Myers share with you that that's because  
7 he didn't want to hold the asset in his name?

8 A He did. He had -- he was having some issues and he  
9 felt it would be best for the LLC, the entity, to his shares of  
10 the entity to be held in his Serv Trust, which was another  
11 entity.

12 Q And you agree --

13 THE COURT: So I'm clear, Serv Trust was the trust,  
14 not an LLC, right?

15 MR. VERSTANDIG: Yes. Your Honor, Serv Trust is what  
16 we maintain to be a statutory trust.

17 THE COURT: Right.

18 MR. VERSTANDIG: And it is not an LLC.

19 THE COURT: Okay. I just -- it might have been that  
20 he initially was talking about setting it up as an LLC. I just  
21 want to make sure that he was always looking to have it at  
22 least held in that third-party entity.

23 BY MR. VERSTANDIG:

24 Q Mr. King, if you could look at Exhibit 1. If you  
25 turn to the signature pages, which I'll submit to you begin





1 about six pages before the end of the exhibit, or maybe seven  
2 pages -- turn back a couple. One more. One more. All right.  
3 Do you recognize the signature of Mr. Myers above his name?

4 A I do.

5 Q All right. And above Mr. Myers' signature, does it  
6 say Serv Trust, a Maryland Statutory Trust?

7 A It does.

8 Q And is that how Serv Trust had been represented to  
9 you at the time you, Ms. King, and your children's trust  
10 entered into the Goldsboro arrangement with Serv Trust?

11 A Yes.

12 Q Now, did there come a time when Mr. Myers sought  
13 bankruptcy relief?

14 A I believe he wanted to -- at some point in 2015, he  
15 came to me in the middle of our -- when we were in the middle  
16 of doing the redevelopment and let me know that some of his  
17 financial woes was turning into him going into personal  
18 bankruptcy.

19 Q Now, because the exhibits are all into evidence, I'm  
20 actually going to skip a head a bit. If you could look at  
21 Exhibit 4. From the beginning of the Goldsboro arrangement  
22 with Serv Trust as the class B member and yourself, your wife  
23 and your children's trust as a class A member, where there  
24 times when Mr. Myers asked for money?

25 A Yes.

1 Q Okay. Please tell the Court about that. For what  
2 reasons was he asking for money and how did this work?

3 A Originally, he came at the closing when we bought the  
4 entity. He initially requested \$300,000 as a advance to early  
5 distribution of funds that he would eventually pay back, you  
6 know, when we sold -- sold the property. He initially kind of  
7 ran through those initial funds very quickly, I think we closed  
8 in July and by January we was starting to come back to me and  
9 ask me for additional funds. And that seemed to happen more  
10 and more frequently, and I continued to feel that there was  
11 value in the property, we were making some progress, and I  
12 continued to lend him money through the course.

13 The second question is what was he using it for. He  
14 was coming and asking me -- he was having some financial  
15 problems with some properties in Florida. He was -- he needed  
16 to get -- put gas in his tank, he had country club bills that  
17 he mentioned that needed to be paid. There are -- there is a  
18 lot of, like, lifestyle monies that he was burning through very  
19 quickly. I believe he was paying mortgages on homes in other  
20 investments that he had. Paying legal fees to kind of keep  
21 him -- initially it was to kind of keep him out of bankruptcy,  
22 and then I think it turned into paying for bills for his  
23 bankruptcy.

24 Q Now, looking at Exhibit 4.

25 MR. VERSTANDIG: And Your Honor, let me clarify



1 something that's going to become inadvertently confusing. I  
2 believe Mr. King is going to testify about this is a  
3 spreadsheet he keeps in the ordinary course of business. The  
4 version is our Exhibit 4 is a copy of that spreadsheet as it  
5 existed on May 14, 2018. I have reason to believe that 6789  
6 Goldsboro may offer a different version into evidence that has  
7 a later date. Their interests are slightly different. Ours  
8 would be -- the points we'll try to make is slightly different.  
9 So if this spreadsheet looks like it morphs later on today, I  
10 promise you there will be a good explanation in closing.

11 THE COURT: Okay.

12 BY MR. VERSTANDIG:

13 Q So Mr. King, looking at this spreadsheet, let's start  
14 with this. Is this something you created?

15 A Yes, it is.

16 Q Okay. Can you explain to the Court, starting on the  
17 top half of the first page, what these numbers, rows, and  
18 columns mean?

19 A The top half, it was my way to keep track of all  
20 monies that flowed into 6789 Goldsboro. You can -- and on the  
21 first page, you can see that it's the King would be myself and  
22 my wife, and on the bottom it's the King Trust. So the two of  
23 those kind of mirror kind of what was spent. There is kind of  
24 the origination date, the closing happened on July 18th.  
25 Simultaneously, you can see up top on the King you can see



1 1.105 roughly, approximately, a million dollars was 80 percent  
2 of the property, the trust, the King Trust owns 20 percent, so  
3 you can see that equals the entire purchase price of, like,  
4 \$1.35 million to buy this piece of property. Simultaneously,  
5 at closing you can see kind of the 80-20 split of the  
6 distribution advance that went out to Serv Trust.

7 Q Is that the 240 on the top half and the 60 on the  
8 bottom half?

9 A That is correct.

10 Q Okay.

11 A And then these loans are all calculated based on --  
12 simple interest based on the day that the loans were made. So  
13 when they hit the bank account, the monies flowed out of the  
14 account. The interest rate that was agreed upon on the loan  
15 was 10 percent, so you can see that the days outstanding, and  
16 this spreadsheet is as of 5/14. You see days outstanding, you  
17 see the principal of all money that was put into Goldsboro,  
18 6789 Goldsboro, the interest on each one of those advances, and  
19 the principal and interest in the last column.

20 Q Mr. King, if you turn to the second page, about one-  
21 third of the way down the page we see a total combined  
22 contribution line. And do I understand that the number  
23 directly next to that is the total combined principal  
24 contributions of yourself, your wife, and your children's trust  
25 without the application of any interest?



1 A That is correct.

2 Q And that's \$2.79 million, correct?

3 A That is, yes, approximately. Yes.

4 Q Okay. Now at the bottom of the second page, there's  
5 an area that on the left is marked as Loans to Serv Trust. Now  
6 help me understand what these numbers are.

7 A So the initial spreadsheet, this tracks all capital  
8 that went into Serv Trust. So this included most of the soft  
9 development costs plus any other monies that flowed out. And  
10 the -- Greg, Mr. Myers, continued to ask for additional funds  
11 to fund his lifestyle. I, you know, at the time I agreed to  
12 continue to fund this as we were making progress and I saw  
13 value there. But you can see that, like loans to Serv Trust  
14 2/27 -- 2/27/2014, which was about seven or eight months after  
15 the closing where I had initially advanced him 300,000. He  
16 came back and asked for another 100,000. So at this point, I  
17 wired him another \$100,000, and then you can see that all of  
18 the advances that I had made to him, which is what kind of that  
19 section of the spreadsheet shows, is he continued to come back  
20 to me asked me for more money for, you know, a multiple -- a  
21 lot of reasons to fund a lifestyle, to keep him out of  
22 bankruptcy, for a lot of reasons. I'm not, yes.

23 Q All right. Can you turn to Exhibit 5? And Mr.  
24 Pelletier and Ms. Wilburn may cover more of this later in the  
25 day, but is this a promissory note that represents some, albeit



1 not all, of those loans to Serv Trust?

2 A That is correct.

3 Q And if you look at the first line of the promissory  
4 note, can you read from the words For Value Received Forward  
5 into the record?

6 A "The undersigned Serv Trust, a Maryland statutory  
7 trust."

8 Q Thank you. And once again, was Serv Trust holding  
9 itself out as a statutory trust when this note was entered  
10 into?

11 A It was.

12 Q And that was in May of 2015, correct?

13 A That is correct.

14 Q Thank you. Now, Exhibits 6 through 10 are email  
15 communications that have been admitted into evidence that all  
16 involve yourself and Mr. Myers. Do I understand correctly that  
17 these are exemplifications on an anecdotal basis of the reasons  
18 Mr. Myers was asking monies to be loaned to Serv Trust?

19 A That is correct.

20 Q Okay. In any of these emails, does he ever say that  
21 Serv Trust needs the money or does he suggest that it is he who  
22 needed the money?

23 A Either in phone conversations or in these emails,  
24 it's -- he's telling me that he needs it -- he was using it to,  
25 again, to fund his lifestyle, to pay his bills, put gas in his



1 tank. He was trying to keep loans afloat down in Florida so  
2 that they did not go into default. There is -- again, there is  
3 a lot of things that were kind of going on in addition to  
4 trying to run, you know, manage the property. But when he was  
5 asking for money, it was not most of the time. There were a  
6 couple of cases where he told me that it was to fund -- he  
7 needed to pay his kid's education. But some of it -- most of  
8 the time it was to do things like pay the country club bill or  
9 pay an attorney or keep a mortgage up to date.

10 Q Now, looking back to Exhibit 4 a second, do I  
11 understand the last loan was made on August 5, 2016?

12 A August 5th, yes. That's correct.

13 Q If you could turn to Exhibit 10. Is this an email he  
14 sent five days later?

15 A Yes it is.

16 Q Would you characterize this email for the Court and  
17 how you understood it as the recipient?

18 A Over time, Mr. Myers was getting more desperate, more  
19 aggressive towards me to kind of push me to continue to advance  
20 him, you know, advance him loans to his -- he was falling  
21 further and further into, you know, some financial issues. I  
22 was trying to just keep our relationship just about the  
23 development. But this email was -- I was having Danielle  
24 (phonetic sp.), which it references in here, she was working on  
25 the promissory note.

1 Q Hold on. Who's Danielle?

2 A Danielle is the attorney that was working on the  
3 promissory note.

4 Q Okay.

5 A And it was taking some additional time. It just  
6 normal, kind of business, you know, relationships with lawyers,  
7 and I wasn't her only customer. And he was just getting  
8 desperate and needed monies quicker and he was putting pressure  
9 not only on me but, you know, was having put money, some --

10 Q This says, "Your decision hurts me and could possibly  
11 put the project in jeopardy. If I cannot pay my ongoing  
12 expenses, then I suspect this will not end well." Correct?

13 A Yes.

14 Q And it's referenced to him, not to Serv Trust, right?

15 A That is correct.

16 Q And did you interpret this as some sort of vague  
17 threat?

18 A I did. And he was acting more and more desperate as  
19 time went on. And at some point, I decided that the monies  
20 that were lent out were -- this is a business, it's a risk.  
21 And part of my risk that I took was making loans, you know,  
22 loans to him. And if I did not feel that the property was  
23 going to support that, at this point I told him that I would  
24 not be making any more advances to him.

25 Q Now, Mr. King, Exhibit 11, do I understand correctly





1 is a compendium of checks that were received in discovery  
2 during this case from Serv Trust? Meaning checks that were  
3 issued by Serv Trust to third parties, or at least alleged  
4 third parties?

5 A That is correct.

6 Q Okay. And I'm going to ask you briefly, if you look  
7 at the upper righthand corner you'll see Bates numbers as they  
8 that were appended to these checks. Could you go to the one  
9 that's marked 317?

10 A Okay.

11 Q And is that a check payable to the Walton County  
12 Clerk of the Court?

13 A It is for \$5,578.

14 Q All right. And could you go to check 342?

15 MR. PELLETIER: Page 342?

16 MR. VERSTANDIG: I'm sorry. I'm sorry. Bates number  
17 342.

18 THE COURT: Yes.

19 MR. VERSTANDIG: Not check number 342, I misspoke.

20 THE COURT: All right.

21 THE WITNESS: Walton County Clerk of Courts for  
22 \$3,686.31 with the case number listed below.

23 BY MR. VERSTANDIG:

24 Q And if I'm reading this correctly, the case number  
25 ends in 6-6-0, correct?

1 A That is correct.

2 Q Okay. Now, let's jump ahead for a moment, and we'll  
3 come back to this, to Exhibit 14, which I understand is the  
4 list of assets Mr. Myers filed in his bankruptcy; is that  
5 correct?

6 A That is correct.

7 Q And if you go to page 17 and use the page numbers at  
8 the top of the page as your guide as opposed to the bottom.  
9 The federal courts have weirdly (unintelligible) it seems. Do  
10 you see a reference on page 17 to monies paid into the Walton  
11 County Court Registry?

12 A Yes. Funds paid into Walton County Court Registry  
13 for the property at 147 Silver Way for \$22,117.86.

14 Q Okay. So we know from the checks that monies were  
15 paid to Walton County Clerk of the Court, and we know from this  
16 that there are monies paid to the Walton County Clerk of the  
17 Court for 147 Silver Laurel Way, correct?

18 A That is correct.

19 Q All right. Now if you go to page -- I'm sorry,  
20 Exhibit 15 and turn to page 5. On the third line, do you see a  
21 foreclosure action for 147 Silver Laurel Way?

22 A Yes. Bank of America, yes. Foreclosure action 147  
23 Silver Way.

24 Q And is there a case number next to it?

25 A Yes. CA000660.

1 Q And do you understand from this that the checks Serv  
2 Trust was cutting were being used to put monies into the  
3 registry of the court for an action in which Mr. Myers was a  
4 party?

5 A Yes. Yes. It looked -- I mean, Serv Trust is  
6 writing checks directly to the -- for the 147 Silver Way.

7 Q And then when Mr. Myers filed bankruptcy, he claimed  
8 that the monies from those checks were his asset, correct?

9 A That is correct.

10 Q Now, I'm going to back up just for clarification  
11 purposes. Let's look briefly at Exhibit 12. Is this a  
12 compendium of wire transfers, all of an outgoing nature, that  
13 you received in discovery in this case?

14 A That is correct.

15 Q And does this show, as best we understand it, all of  
16 the outgoing wires of Serv Trust to third parties, or at least  
17 alleged third parties?

18 A That is correct.

19 Q Now, I'd like to look briefly at Exhibit 13, which is  
20 a motion to intervene that was actually filed in this case. If  
21 you go a couple of pages in, you'll see there's a motion to  
22 dismiss attached to that. And if you go to page 7 in the  
23 motion to dismiss, you'll see that it was signed by Mr. Myers.

24 THE COURT: I guess, unfortunately, I have just three  
25 pages of the motion to dismiss, if that's attached as a part of

1 13.

2 MR. VERSTANDIG: Your Honor, may I --

3 THE COURT: You may approach.

4 MR. PELLETIER: I have an extra. You can have my  
5 copy.

6 MR. VERSTANDIG: I won't admit I made these.

7 THE COURT: That's all right. I just have one, two,  
8 three, and then --

9 MR. PELLETIER: We have a copy you can have, Your  
10 Honor.

11 THE COURT: Oh, I see. Okay. I got it. No, I got  
12 it. I got it. It's just a blank page in here. I thought that  
13 was the next item, so I have it all.

14 MR. VERSTANDIG: Okay.

15 BY MR. VERSTANDIG:

16 Q And is this signed by Mr. Myers?

17 A Yes. This is signed by Mr. Myers.

18 Q And what did he write about the signature?

19 A Serv Trust, a Maryland statutory trust.

20 Q Thank you.

21 MR. VERSTANDIG: Your Honor, Court's indulgence for a  
22 moment.

23 THE COURT: All right. Sure.

24 MR. VERSTANDIG: Making some slight --

25 BY MR. VERSTANDIG:





1 Q Mr. King, did there come a time when Mr. Myers was  
2 discharged as the manager of 6789 Goldsboro, LLC?

3 A Yes. January, yes. At some point, we discharged  
4 when I kind of felt that he was going to defraud. I got the  
5 impression that he was going to try to defraud me, which is  
6 what I kind of felt.

7 Q So had there previous to that been a time when the  
8 class A members offered to buy Serv Trust interest in the  
9 company as a means of giving Mr. Myers more money when the loan  
10 stopped?

11 A That is correct.

12 Q And for how much money did the class A members offer  
13 to buy Serv Trust's interest in the company at that point in  
14 time?

15 A Minus the advances, the loan, I mean, the buyout  
16 number that he would've received at that point was right around  
17 close to a million dollars. I did that, I mean, I went through  
18 that exercise just to kind of help him. He was desperate for  
19 money. I didn't need to make him an offer, I didn't want to  
20 give him an offer, but -- or not didn't want to, I did. I just  
21 felt it was going to help him get out of his bankruptcy if he  
22 was able to get the monies earlier, but he didn't accept it.

23 Q Now just for clarity, you said minus the advances it  
24 would've been a million dollars. So I understand the offer  
25 would've been something in the neighborhood of \$2 million and

1 Serv Trust would have to have repaid all the advances, and thus  
2 would net it out something in the neighborhood of a million  
3 dollars?

4 A That is correct.

5 Q And when this offer was made to Mr. Myers, was it in  
6 or about September 2016?

7 A That is -- September 2016.

8 Q And was a finite period of time put on the offer?

9 A Yes. I gave him -- I put two weeks he had to accept  
10 the offer in September 2016.

11 Q And during those two weeks, did you receive an  
12 acceptance of the offer from Mr. Myers?

13 A I spoke to him multiple times and got some emails  
14 from him during that time, and at no point did he ever say that  
15 he was accepting the offer.

16 Q Okay. Now subsequent to those two weeks, did 6789  
17 Goldsboro have certain meetings with zoning, planning or other  
18 regulatory figures in Montgomery County?

19 A Yes.

20 Q Okay. And can you describe generally what was  
21 gleaned and learned during those meetings?

22 A Before -- I'm sorry, before or after I made the  
23 offer?

24 Q After you made the offer and after the two weeks  
25 elapsed where you didn't get an acceptance.



1           A     Yes. I believe with Parks and Planning we had an  
2 additional -- we had an October meeting, November meeting, and  
3 December meeting. And I believe that I was able to attend all  
4 of those, having conversations with him in person. And at  
5 those meetings, we were moving forward with the zoning, trying  
6 to get the, you know, change it from a single-family to a  
7 multi, like 19-townhouse development.

8           Q     And if we go back and look at the operating agreement  
9 which we'll cover, it actually contemplates 19 units as the  
10 threshold for development in one of the sections, correct?

11          A     That is correct.

12          Q     Okay. So I'm sorry, I didn't mean to cut you off.  
13 You said you were trying to get approvals for 19 units and you  
14 had these meetings with Parks and Planning?

15          A     Yes.

16          Q     What happened during these meetings?

17          A     Greg, as manager, was kind of making, you know, made  
18 presentations with our development team. At some point, and  
19 after the December meeting -- and we never got any rulings from  
20 Parks and Planning, we just got some guidance from them that by  
21 the December meeting because the land sits on some slopes.  
22 There's a creek that runs down the middle, and we were looking  
23 to develop on one side of the creek that runs down the middle.  
24 The Parks and Planning was having some issues with us doing the  
25 development on some of the steep slopes. So they were never --



1 they gave us some guidance that they weren't going to give us  
2 the 19 units, and that's kind of the way those three meetings  
3 kind of ended up is we never went any further with Parks and  
4 Planning.

5 Q Now, let's briefly detour and just talk about  
6 exhibits, I believe it's 20, 21, and 22. Are these  
7 communications from the interim period between when your offer  
8 to Mr. Myers expired and when negative news came from Parks and  
9 Planning?

10 A Yes. This -- the first -- Exhibit 20 is a text  
11 conversation that I had with Mr. Lynch, who was one of the  
12 trustees. And it was my impression from the meeting kind of  
13 what happened, and my impression was that they were going to  
14 shave off two to four units from the number that we were  
15 asking. I let them know that our breakeven was somewhere in  
16 the -- around seven. So I, you know, I let him know that we  
17 had some room to give up from the development side, and he said  
18 good news, and then fingers crossed. And then at that point, I  
19 just said FYI, I just got a call to revisit doing a buyout with  
20 Mr. Myers. He was looking for more dollars than I had  
21 originally offered him for the potential units -- no, it's like  
22 for potential units than what I had offered two months ago. I  
23 told him I'm not considering it at this time.

24 Q And just to be clear because Mr. Myers' name is not  
25 actually in the bottom text, Mr. Myers is the person referenced



1 when you say just got a call, correct?

2 A That is correct.

3 Q And at the top, it's a little bit cut off, but do I  
4 understand this is from December 15, 2016?

5 A Yes. This was the text to Mr. Lynch. I believe I  
6 was driving home. I was on my way back from the Parks and  
7 Planning meeting that day.

8 Q All right. So after the initial offer to Mr. Myers  
9 was made and expired, you're sharing with Mr. Lynch that Mr.  
10 Myers has come back and is trying to negotiate different terms,  
11 still pursuing a potential buyout?

12 A The buyout that I had offered had a firm date on it,  
13 two weeks after the September offer. And I'm not sure what Mr.  
14 Myers' impression was from this meeting. Maybe he thought that  
15 we were going to get more shaved off than two to four. And  
16 maybe some of his financial issues that he was having, which  
17 was maybe a better thought was --

18 THE COURT: Don't tell me what you speculate --

19 THE WITNESS: Okay.

20 THE COURT: -- as to what was going on. Just tell me  
21 what he said to you and what your responses were.

22 THE WITNESS: The text says what my response was. He  
23 came back, tried to renegotiate the price, was asking for  
24 additional funds over what I had offered him. And --

25 THE COURT: But did he make a firm request of you?



1 Did he say give me 1.5 million at this point?

2 THE WITNESS: I don't recall at this point.

3 THE COURT: Okay.

4 THE WITNESS: I think if he would've given me a  
5 number, I think he just wanted more money.

6 THE COURT: Okay. So the 2 million was not  
7 acceptable to him at that point?

8 THE WITNESS: That's -- that is correct.

9 THE COURT: Okay.

10 BY MR. VERSTANDIG:

11 Q Now after the deadline for the 2 million passed, and  
12 after he asked for more money, do I understand correctly  
13 Exhibits 21 and 22 sort of show him conducting business as  
14 usual after the deadline to accept the 2 million had passed?

15 A That is correct. I mean, he was at the Parks and  
16 Planning meetings in October, November, and December without  
17 issue.

18 Q Now at that December meeting, did Parks and Planning  
19 have any sort of good news, bad news or impactful news as to  
20 the potential of this project?

21 A I'm sorry, can you say that again?

22 Q Yes. Did there come a time when Parks and Planning  
23 told you you weren't getting 19 units?

24 A That is correct, yes.

25 Q All right. Did there come a time when they suggested



1 it might be a much lower number?

2 A Yes.

3 Q All right.

4 A It was sometime in mid-January.

5 Q Okay. And what was your understanding of what they  
6 would approve?

7 A My understanding was it was going to be the high  
8 single digits -- the high single digits.

9 Q Could I understand that to mean somewhere between 6  
10 and 10?

11 A That would be somewhere between six and nine.

12 Q That's a good point; 10 is not a single digit. Thank  
13 you. All right. And after that, did there come a time when  
14 Mr. Myers feigned to have timely accepted your original offer?

15 A Yes. I believe -- again, the date kind of slips me,  
16 but I believe it was January 18th. I got a very short, brief  
17 email from Mr. Myers saying -- it probably said Brian, for me  
18 to kind of paraphrase it, Brian, why didn't you close on the  
19 offer that I gave you in October? I accepted it.

20 Q And without telling me anything that you said to your  
21 lawyers, what did you do thereafter?

22 A I immediately called my attorneys. I had them draft  
23 a letter Mr. Myers. I fired him as a manager as I felt I was  
24 being defrauded. I contacted the development team, told them  
25 Mr. Myers is, in writing, that Mr. Myers is no longer the

1 manager of 6789 Goldsboro. I'd be taking over those  
2 responsibilities. And, yes, I think that's --

3 Q All right. And did there come a time when you  
4 elected to exercise the class A -- or I should say the class A  
5 members elected to exercise the class A members redemption  
6 mechanism under the operating agreement?

7 A So the way the operating agreement was written, it  
8 was written for that three-year term. I had --

9 Q You can look at Exhibit 17, might be helpful here.

10 A Yes. Initially it was for a three year -- he had  
11 three years to develop it as the manager. After three years,  
12 which was I think July of 2016, we were continuing to move  
13 forward. It wasn't until -- it wasn't until August of 2017  
14 that we elected -- after, again, after I understood that he was  
15 going to try to defraud me, I retained counsel and elected to  
16 redeem the class B shares of Goldsboro.

17 Q And Exhibit 18 is his email acknowledging receipt of  
18 the letter from my firm triggering the redemption mechanism?

19 A Serv Trust has received correspondence from you, from  
20 the VerStandig Law Firm dated August 23, 2017.

21 Q And I think he threatens to both suing and  
22 (unintelligible) somewhere in there, correct?

23 A That is correct.

24 Q And ultimately you did have an appraisal completed,  
25 correct?





1 A Yes. By Lipman, Frizzell & Mitchell.

2 Q And that's the appraisal Exhibit 19, correct?

3 A That is correct.

4 Q And if we turn to, I believe it's page 5 -- I'm  
5 sorry, page 3 of that document. Do we see the appraised value  
6 at 1 million to 1.325 million?

7 A Yes. The value that they came to was \$1 to \$1.325  
8 million of the property.

9 Q And then this is shown on Exhibit 4, which is for the  
10 record, at this moment in time, August 17, 2017, had the class  
11 A member's capital contributions exceeded \$1.325 million?

12 A Without looking back, they probably doubled that  
13 number. Well, maybe even more than doubled that number. It  
14 was much more at that point, it was a soft costs and loans out  
15 to Mr. Myers.

16 Q All right. And did Serv Trust ever designate a  
17 counter appraiser pursuant to the operating agreement?

18 A In the operating agreement, they had -- the way that  
19 I believe it was written, they had the opportunity to get their  
20 own appraisal. And if they were so far apart, then we would  
21 even out to get the third appraisal, but yes. We got our  
22 appraisal, and Serv Trust had the opportunity to get an  
23 additional appraisal for their number.

24 Q And did they avail themselves to that opportunity?

25 A They did not.



1 Q Okay. And to this day, the 3rd day of January of  
2 2023, have you ever seen an appraisal of 6789 Goldsboro Road  
3 from Serv Trust or Mr. Myers?

4 A I have not.

5 Q Thank you.

6 MR. VERSTANDIG: Your Honor, I have no further  
7 questions for Mr. King at this time.

8 THE COURT: All right. Anybody have any questions  
9 for Mr. King?

10 MR. PELLETIER: I do not, Your Honor. I would start  
11 my case unless Mr. Mastro has questions.

12 MR. MASTRO: No questions, Your Honor.

13 THE COURT: All right. Let me just see if I have any  
14 questions.

15 BY THE COURT:

16 Q So the map of contributions against the value of the  
17 property, the 1.325, you counted the loans to Mr. Myers as part  
18 of the contributions of the King entities?

19 A Yes.

20 Q All right. And since those loans were personal to  
21 Mr. Myers, why were they counted as part of the project costs?

22 A The way I was keeping my spreadsheets at the time, I  
23 was keeping all the capital that I was putting into Goldsboro.  
24 And I have the --

25 Q But you knew --



1 A -- I have the costs --

2 Q -- you knew this wasn't going to Goldsboro. I mean,  
3 you knew that the reason that those payments were going to Mr.  
4 Myers --

5 A Well, the spreadsheet shows --

6 Q -- to pay his personal expenses?

7 A -- the money that was going -- the monies that  
8 were -- I mean, I have it in other, I have it in -- well, in  
9 this spreadsheet, if you take out the monies that went to Mr.  
10 Myers minus the monies that were actually submitted to it,  
11 those are the monies that were actually went to the soft costs  
12 of the development. And I have those in my Quicken program  
13 of -- this spreadsheet just is a way to reconcile all the  
14 monies that went in.

15 Q I understand. The question I have, and you're sort  
16 of going to it is, excluding the loans to Mr. Myers, did the  
17 King entities -- capital or cost contributions exceed \$1.325  
18 million?

19 A Oh, yes. Yes.

20 Q Okay.

21 A Yes.

22 Q Then it makes it easy, so. All right. So I don't  
23 have to determine whether that would be an appropriate number  
24 to use for Mr. Myers' loans. Okay. Great.

25 MR. VERSTANDIG: Your Honor, if I may?

1 THE COURT: Do you have any questions based on my  
2 questions. Sure.

3 MR. VERSTANDIG: Yes. Let me, appreciating the last  
4 point you made which I think takes care of the whole thing, but  
5 let me try to clarify one thing.

6 THE COURT: Okay.

7 BY MR. VERSTANDIG:

8 Q When Mr. Myers would ask for money, would you lend  
9 him the money or would 6789 Goldsboro lend him the money?

10 A 6789 Goldsboro was lending him the money.

11 Q All right. And 6789 Goldsboro, notwithstanding the  
12 question I just asked, was really lending the money to Serv  
13 Trust that was then giving it to Mr. Myers, right?

14 A That is correct.

15 Q And for 6789 Goldsboro to have the money to loan to  
16 Serv Trust, would you, your wife, and your children's trust  
17 have to put that money into 6789 Goldsboro?

18 A Yes. So that was the flow of money. I put it -- I  
19 didn't just write a check to him personally. I put it into the  
20 entity to keep track of it, and then 6789 Goldsboro then  
21 distributed it and made those cash wires, checks out to either  
22 Greg personally I think in one instance, but sometimes  
23 directly -- sometimes to Serv Trust.

24 Q All that notwithstanding, just to echo what the judge  
25 just asked you, even if you put aside those loans, the capital





1 contributions by class A members still exceeded \$1.35 million  
2 on the date of the appraisal?

3 A That is correct.

4 MR. VERSTANDIG: Your Honor, nothing further.

5 THE COURT: Okay. All right. What I'm going to do  
6 is before we begin your case, we're right at 11:00, and that's  
7 usually when we take a morning break. We'll take 15 minutes,  
8 let everybody stretch your legs, use the restroom, we'll come  
9 back at 11:15 and we'll pick up then.

10 MR. PELLETIER: Thank you, Your Honor.

11 MR. VERSTANDIG: Thank you, Your Honor.

12 THE CLERK: All rise. Court stands in recess.

13 (Recess)

14 THE COURT: Good morning again, everyone. Please be  
15 seated.

16 THE CLERK: Back on the record.

17 THE COURT: All right. All right. I'm happy to hear  
18 your case.

19 MR. PELLETIER: Thank you, Your Honor. Eric  
20 Pelletier for 6789 Goldsboro, LLC, calling, or continue on the  
21 examination with Mr. King.

22 THE COURT: Okay. All right, Mr. King, just remember  
23 you're still under oath.

24 THE WITNESS: Okay.

25 THE COURT: Okay.



CROSS-EXAMINATION

BY MR. PELLETIER:

Q Mr. King, for the record, you're here as 6789  
Goldsboro, Goldsboro, LLC's corporate designee?

A I am.

Q And do you have a title with the company currently?

A Manager.

Q Okay. How long have you been manager?

A Since January 2017.

Q Okay. And looking back in exhibit, at an exhibit you  
saw this morning as promised, it's Exhibit No. 5, Exhibit No. 5  
in the materials that Mr. VerStandig showed you.

A Uh-huh.

Q Do you recognize that document?

A It's a promissory note that I signed with Serv Trust.

Q Okay. And who is the borrower, just to be clear?

A Serv Trust of Maryland statutory trust.

Q Okay. And the holder of the note is 6789 Goldsboro?

A Yes.

Q And that's a true and accurate copy of the note and  
so forth?

A Yes.

Q And whose initials are on the bottom of each page of  
the note?

A Greg Myers.



1 Q How do you know that?

2 A I have seen those initials before.

3 Q Okay. Now Section 1 of that exhibit, Exhibit 5,  
4 Plaintiff's Exhibit 5, lists prior advances. So, can you  
5 explain to me what is meant by the term prior advances?

6 A When we were kind of working together, we did not,  
7 this, this note, promissory note was made in 2015. From the  
8 start of the business relationship, he had come to, come and  
9 asked me for advances; and in, May 2015, we kind of  
10 memorialized all the promissory, all the loans that were made  
11 out to, that served 6789 Goldsboro made to Serv Trust.

12 Q Okay. And those are reflected in Exhibit 1?

13 A That is correct.

14 Q Section 2 refers to future advances. What, can you  
15 explain to me what is meant by future advances?

16 A I understood at the time that these loans that were  
17 being made out to him were not going to, were not going to  
18 stop. So, we, any additional advances, advances that we made  
19 in the future were, would be covered under future advances.

20 Q Okay. And did you keep track of the future advances?

21 A I did.

22 Q Okay. I'm going to refer you to, well, how did you  
23 do that?

24 A Through a spreadsheet.

25 Q Okay. Now if you could refer to the white notebook

1 which are my --

2 A Yeah.

3 Q -- my exhibits? Under Tab 3, they're misnumbered,  
4 but it's Exhibit 24.

5 A Yes.

6 Q Do you recognize that?

7 A Yes. it's a portion of a bigger spreadsheet that I  
8 keep.

9 Q Okay. And can you just walk us through what is shown  
10 on Exhibit 24?

11 A Yes. This is the loans that 6789 Goldsboro made to  
12 Serv Trust after the closing. So, you can see the original on,  
13 the original portion of these notes have, these loans started,  
14 an origination date of February 27, 2014, and they go the whole  
15 way up to August of 2016 with, this, this spreadsheet is  
16 current up to January 1, 2023. So, you can see the days  
17 outstanding, the principle that was advanced, 635; the interest  
18 due; and the principle and interest at the end of, which is the  
19 total.

20 Q Now just to be clear, if you could refer back to the  
21 promissory note which is in front of you at Exhibit 5, was  
22 there a, a maturity date under that note? I believe it's on  
23 page 2.

24 A The maturity date is December 31, 2017.

25 Q Okay. Now just going back to the exhibit I had just





1 shown you, Exhibit 24, there's an entry here, the second column  
2 says, "Due date," on Exhibit 24; and it says, January 2, 2023,  
3 can you explain why you used that date, what, what the date was  
4 used for on this exhibit?

5 A That date is to calculate the interest outstanding.  
6 So, each of these loans were, like let's take the first loan  
7 and it's \$400,000. There's, the difference between the, the,  
8 the 2014 date and the 2023 date is 3,230 days. So, it's simple  
9 interest on a principle of \$100,000. There's \$89,000 of  
10 interest, approximately \$89,000 worth of interest due, and  
11 principle and interest is the last column.

12 Q Okay. And just to clarify, and I'm sorry I'm hopping  
13 back between exhibits, but back to page 2 of Exhibit, of the  
14 promissory note, Exhibit 5, does, does this note provide for  
15 when interest starts to be calculated and how?

16 A Yes, it --

17 Q What section, sir?

18 A It is interest, Section 3.

19 Q Uh-huh. And when does interest commence?

20 A It commences on the, when they, when the loans were  
21 actually made to Serv Trust.

22 Q Okay. So, going back again to the spreadsheet, the  
23 days outstanding --

24 A Yes?

25 Q -- what, what does that column reflect now?

1 A The number of days since the loan was made.

2 Q Okay. And just going through the rest of the  
3 columns, do we know what the principle is? Well, actually, why  
4 don't you explain what's listed in the principle column.

5 A In the principle column, it's, these are, these are  
6 funds that were either written, or sent to Serv Trust or Mr.  
7 Myers directly for 600, for a total of \$635,000 in, in loans  
8 that were made after closing.

9 Q Okay. So, so, each of these, each of these entries  
10 in the column titled principle is an amount of a loan made  
11 under the note?

12 A Correct.

13 Q Okay. And what's the next column over?

14 A Interest due on, on the principle for that individual  
15 loan. So, I kept track of them individually because that's the  
16 way it was done in the promissory note.

17 Q And the final column?

18 A It just adds those, the principle and interest due  
19 together to give you --

20 Q Per loan, for each loan?

21 A For each loan.

22 Q Okay.

23 A Correct.

24 Q Now going down to the bottom in bold, what is the  
25 principle interest and principle and interest combined total of

1 each?

2 A \$1,134,937.50.

3 Q And you kept this in, in a, in the usual course of  
4 6789 Goldsboro's business?

5 A Yes.

6 MR. PELLETIER: We'd move this Exhibit No. 24 into  
7 evidence, Your Honor.

8 THE COURT: All right. Plaintiff's 24 is received,  
9 or, yeah, the plaintiff.

10 MR. PELLETIER: Is it 24? It should be --

11 THE COURT: 6789 Goldsboro's 24 is received, which is  
12 Plaintiff's 24 is received.

13 (The item marked for  
14 identification as Plaintiffs'  
15 Exhibit No. 24 was received in  
16 evidence.)

17 MR. PELLETIER: Thank you, Your Honor.

18 BY MR. PELLETIER:

19 Q And just for point of clarification, Mr. King, I'm  
20 going to show you, now it's lost in the, in the papers here on  
21 our table. I'm going to show you what's been marked and the  
22 Judge has it exhibit, as Exhibit 27. Do you recognize what  
23 Exhibit 27, which may be tucked in the very back pocket --

24 A Yeah.

25 Q -- okay? Do you recognize what that is, sir?



1           A     It's kind of the, the bigger spreadsheet that gives  
2 all the details.

3           Q     Well, first, just answer the question.

4           A     Yes. Yes.

5           Q     Do you recognize this?

6           A     I do.

7           Q     Okay. Who, who compiled this?

8           A     I, I do.

9           Q     And how current is this document?

10          A     As of January 1, 2023, its current.

11          Q     Okay. And I can't remember the exhibit number of the  
12 one that Mr. VerStandig put in, but is this merely, of Exhibit  
13 4, is this an update to Exhibit 4, just to bring current? It's  
14 a little bit different printed format, but --

15          A     Yeah. The copy that Mr. VerStandig had was, was May  
16 14, 2018.

17          Q     And it was calculated as of that date because trial  
18 was supposed to happen at that time?

19          A     Yeah, I, yes.

20          Q     Okay.

21          A     I'm assuming, yes.

22          Q     Okay. And just looking at the freestanding Exhibit  
23 27, it's in my hand, the very last page, and there's printed  
24 pages, is that correct, sir?

25          A     That's correct.



1 Q The very last page has the loans to Serv Trust and  
2 I'm just doing this for housekeeping purposes. The section  
3 that's titled on page 3 of Exhibit 27, loans to Serv Trust, is  
4 that the same thing as what we just introduced into evidence,  
5 Exhibit 24?

6 A That is correct.

7 MR. PELLETIER: Did Your Honor follow that? I don't  
8 want to confuse the record.

9 THE COURT: Yeah. Yeah, I have it the 630 was to  
10 Serv Trust.

11 BY MR. PELLETIER:

12 Q So, sir, what is the total amount of principle and  
13 interest that, under the promissory note per se that Goldsboro  
14 was seeking from Serv Trust today?

15 A The 635, plus the interest, which would be the \$1.134  
16 million and change.

17 Q Okay. And so, just to be clear, all these loans have  
18 actually funded?

19 A They have.

20 Q Has any of, any of the, have any of these loans been  
21 repaid at all?

22 A There has been no repayment of either principle or  
23 interest as of today.

24 Q Sir, does the promissory note allow for recovery of  
25 attorneys' fees?

1 A It does.

2 Q I'm going to ask you to turn to, in the white  
3 notebook, if you could, to Exhibit 23. Do you recognize  
4 Exhibit 23?

5 A These are invoices from Offit Kurman.

6 Q Okay. And is, have these invoices been paid?

7 A Yes.

8 Q Okay. Now just to be clear, you said invoices. If  
9 you could turn to the very last page of Exhibit 23? That page  
10 is not an invoice, is that correct, sir?

11 A That is correct.

12 Q And what's your understanding of what that very last  
13 page is?

14 A These are, these are billable charges that will be  
15 billed on the January bill.

16 Q Thank you, sir. And with respect to everything else,  
17 the invoices, these are true and accurate copies of invoices  
18 that you've actually received from Offit Kurman?

19 A Received and paid.

20 Q Received and paid?

21 MR. PELLETIER: Your Honor, I'd offer Exhibit --

22 THE WITNESS: Except for this --

23 MR. PELLETIER: -- I'll offer Exhibit 23 into  
24 evidence.

25 THE COURT: All right. Plaintiff's 23 is received.



1 (The item marked for  
2 identification as Plaintiffs'  
3 Exhibit No. 23 was received in  
4 evidence.)

5 BY MR. PELLETIER:

6 Q And Exhibit 23 itemizes all the time entries for time  
7 spent by each person rendering billed services, is that right?

8 A That is correct.

9 Q Okay. What do you do for a living, sir?

10 A I own and develop real estate.

11 Q And during the course of your development and  
12 management, and develop, real estate management and development  
13 business, do you employ the services of attorneys?

14 A Yes.

15 Q How often?

16 A Very often.

17 Q In the, in, where does your business operate, what  
18 state?

19 A Maryland.

20 Q And can you just describe for me what, through the  
21 course of your business, what your interactions are with your  
22 attorneys, what kind of services do you seek from them?

23 A If I'm, if I'm closing on a deal, it would be real  
24 estate attorney. If I'm doing, somebody reviewing my lease, it  
25 would be, it just depends. I mean I have a lot of facets of



1 owning and managing a business. So, it could be human  
2 resources. It could be estate. It could be real estate. It  
3 could be litigation.

4 Q And do you, do you have an opinion on the issue of  
5 whether or not the attorneys' fees of 6789 Goldsboro has been  
6 charged, i.e., Exhibit 23, what's shown in Exhibit 23, do you  
7 have an opinion on whether or not those fees are fair and  
8 reasonable?

9 THE COURT: How can he opine to that?

10 MR. PELLETIER: Your Honor --

11 THE COURT: Usually, I give, I'll give an attorney --

12 MR. PELLETIER: And we're prepared --

13 THE COURT: -- an affidavit or something along those  
14 lines.

15 MR. PELLETIER: We, we could do that. We're prepared  
16 to do that, but to answer your question directly, there's a  
17 case on point. It's Zachair v. Driggs.

18 THE COURT: Okay.

19 MR. PELLETIER: And it says a lay person can render  
20 an opinion on attorneys' fees and the reasonableness, like a  
21 lay opinion in like a conversion case in some sense --

22 THE COURT: Okay.

23 MR. PELLETIER: -- it's a lay opinion. And also,  
24 Your Honor, I think this falls under one of those cases where  
25 it's an element of damages. So, it would be for the Court to



1 opinion on anyway.

2 THE COURT: Well, it is, I mean I'm not sure if it,  
3 you know, I was looking at it under here in the collection, it  
4 says in event of it falling apart, it needs to pay the holder  
5 reimbursement upon fees. And, you know, it's unclear as to  
6 whether it's an action of damages or whether it's you're  
7 entitled to get your fees afterwards which you would get in  
8 terms of, under the rule. It sets forth the, you know, the  
9 analysis that I have to go through under --

10 MR. PELLETIER: Well --

11 THE COURT: -- the 2-700 rules.

12 MR. PELLETIER: Yeah, the 2-700 rules. So, I will  
13 admit my weakness in understanding the one that is prevailing  
14 party versus --

15 THE COURT: Right.

16 MR. PELLETIER: -- versus element of damages.

17 THE COURT: Right.

18 MR. PELLETIER: To me, my, my thinking was this is an  
19 element of damages because it just doesn't say the winner or  
20 the prevailing party gets the fees; but, in any event, we're  
21 able to put on Mr. Wilburn who can opine on it. We can go  
22 through the reasonableness --

23 THE COURT: Okay.

24 MR. PELLETIER: -- factors.

25 THE COURT: All right. Well, let him opine since he



1 started the case.

2 BY MR. PELLETIER:

3 Q So, sir, do you have an opinion on whether or not the  
4 bills rendered to you by Offit Kurman to, you know, represent  
5 you in this matter are fair and reasonable?

6 A Yes, sir. They seem reasonable to me.

7 Q And so, sir, if you could turn to Exhibit 25 in the  
8 white notebook, if you have it, Exhibit 25, is it numbered for  
9 you, sir?

10 A Yes, it is.

11 Q What's the title of that document at the very top?  
12 There are some numbers.

13 A A client number with 6789 Goldsboro dispute with Serv  
14 Trust.

15 Q Okay. And have you seen this before?

16 A Yes.

17 Q What is it?

18 A It is the, the bills that, that, that I received and  
19 paid, or you could, and paid, total billed fees, fees billed,  
20 hard costs, soft costs and total A&R.

21 Q Okay. So, this is a tally of the bills, plus the  
22 whip, which is the last page of Exhibit 23?

23 A Yes, this does include the unbilled part.

24 Q Okay.

25 MR. PELLETIER: We'd move, we'd offer Exhibit 25 into



1 evidence, Your Honor.

2 THE COURT: All right, 25 is received.

3 (The item marked for  
4 identification as Plaintiffs'  
5 Exhibit No. 25 was received in  
6 evidence.)

7 BY MR. PELLETIER:

8 Q If you could turn to Exhibit 26, sir? Do you  
9 recognize that document?

10 A Yes.

11 Q It's titled, total amount due and owing. Can you  
12 explain to me what's reflected on that exhibit?

13 A This is the principle of the promissory note that we  
14 looked at earlier, the interest due and the attorneys' fees  
15 that I've incurred for a total of \$1,264,737.76.

16 Q And you were seeking that as part of a judgment  
17 against Serv Trust today?

18 A Yes.

19 Q Did 6789 loan additional sums beyond the amounts  
20 we've just discussed? Did it loan additional sums to Serv  
21 Trust?

22 A Yes.

23 Q How much?

24 A \$300,000 at closing.

25 Q Okay. And, and I think you said that was, what, 2013



1 or 2014?

2 A 2013 at the closing, so it happened in July of 2013.

3 Q And just to sort of clarify things, when you're  
4 referencing the closing, what was the closing, the closing for?

5 A The closing was when 6789 bought the property at 6789  
6 Goldsboro Road.

7 Q Okay. And what was the \$300,000 loaned related to?

8 A It was a loan made to Serv Trust so that they could  
9 make a capital contribution into the, into the company.

10 Q And so, if, and I lost you. I think, if you could  
11 just turn to in the black notebook Exhibit 1, which is the  
12 first-amended and restated operating agreement --

13 A Yes.

14 Q -- of Goldsboro. Are the capital contributions  
15 reflected in that document?

16 A Yes, they are, on, I think, the third to last page.  
17 It shows the initial, the third column is initial capital  
18 contributions as of July 18, 2013; and the last, the Class B  
19 members contribution was \$306,192. And this, the Serv Trust  
20 had already invested \$6,192 into this and my, they were able to  
21 add the \$300,000 loan that I made to Serv Trust.

22 Q The 6789 made to Serv Trust?

23 A That 6789 made to Serv Trust and that's how they got  
24 to the \$306,192.

25 Q Okay. Did that, did that \$306,192 remain in 6789





1 Goldsboro's operating accounts?

2 A No, that was immediately distributed out to Serv  
3 Trust at closing. I think it was wired at closing.

4 Q So, the capital contribution came back out?

5 A Yes.

6 Q And what was your understanding of the terms of, of  
7 how that \$300,000 was going to be repaid?

8 A That would be repaid at closing.

9 Q Closing on what?

10 A When, if we, if we ever, I'm sorry, so if we ever  
11 sold the property, the \$300,000 would be, would, would,  
12 depending on how the waterfall, I forget exactly what the  
13 waterfall is, but it would be deducted from the capital account  
14 of, of Serv Trust, the Class B member at that time prior to, as  
15 the closing statements were, were made up.

16 Q Has that \$300,000 been repaid to date to 6789  
17 Goldsboro?

18 A No, it has not.

19 Q And in allowing that money to come out of Goldsboro's  
20 account, what was your, did you rely on the, strike that.  
21 There was a promise of repayment of that sum?

22 A Yes.

23 Q Did you rely on that in making the loan?

24 A Yes.

25 Q And do you, do you here today, you meaning you as a



1 managing member of 6789 Goldsboro, LLC, seek that as part of  
2 the recovery in this case against Serv Trust?

3 A Absolutely, yes.

4 MR. PELLETIER: If I can have your indulgence, Your  
5 Honor? I'm just going to look at my notes if I can find them,  
6 Your Honor.

7 BY MR. PELLETIER:

8 Q Sir, would you have allowed, excuse me, would you  
9 have allowed Serv Trust to withdraw that sum from 6789's  
10 account with, if, if you understood that it would not be  
11 repaid?

12 A No.

13 Q And it hasn't been paid to date?

14 A It has not.

15 MR. PELLETIER: Your Honor, I have no further  
16 questions.

17 THE COURT: Do you have any questions?

18 MR. VERSTANDIG: Your Honor, I have one question.

19 THE COURT: Okay.

20 REDIRECT EXAMINATION

21 BY MR. VERSTANDIG:

22 Q During the course of your various dealings in your  
23 capacity as a manager of 6789 Goldsboro, did you come to learn  
24 the name of Mr. Myers' spouse?

25 A Barbara Ann Kelly.



1 Q Thank you.

2 MR. VERSTANDIG: Nothing further.

3 THE COURT: Okay. Do you have any --

4 MR. MASTRO: No questions, Your Honor.

5 THE COURT: All right. I have a couple questions.

6 BY THE COURT:

7 Q Has the, has the property, 6783, been sold? Have you  
8 sold, has, has, has the property at issue or at 6789 Goldsboro,  
9 has that been sold?

10 A No.

11 Q Okay. If, if the interest is redeemed, what does  
12 that do to the claim for the \$300,000?

13 A I'm sorry?

14 Q I'm just trying to see, you're trying to redeem his,  
15 his claim, or his equity interest, and then you're also seeking  
16 to recover that interest from him. I'm trying to figure out,  
17 are you, is that, are you double-dipping in a sense?

18 A The \$300,000, if in the spreadsheet --

19 Q You made, you, you lent money to Serv Trust. Serv  
20 Trust then makes a capital contribution?

21 A Yes.

22 Q And then for your sake, is it then immediately sent  
23 out, that capital contribution back to Serv Trust? So, in  
24 essence, I mean I, it looks illusory to me that there's any  
25 actual capital contribution from Serv Trust at all in this

1 endeavor. I mean what you're putting on your books and putting  
2 out to the public is that there's a \$300,000 contribution from  
3 Serv Trust but, in essence, there isn't.

4 A No, that the monies went straight out to Mr. Myers at  
5 closing.

6 Q Okay. So, when Mr. Myers --

7 A So, they, they never --

8 Q -- directly?

9 A To Mr. Myers, well, to Serv Trust.

10 Q All right.

11 A And --

12 Q I mean it, it, I mean it looks like a shell game. It  
13 looks like money goes in and money comes right back out.

14 A Well, I, for my purposes, I would put, I would infuse  
15 capital into the property --

16 Q Uh-huh.

17 A -- and then I would have the property lend money to,  
18 to Mr. Myers.

19 Q All right.

20 A It was either to lend money to Mr. Myers or pay for  
21 soft costs.

22 Q But, but I understand that's on the loans, but I'm  
23 trying to, this is a capital contribution, what you're carrying  
24 on your books is a capital contribution which Serv Pro is  
25 purported to make and that's fine, you make a loan of \$300,000



1 to Serv Pro and Serv Pro signs a promissory note and then they  
2 put the money in this capital; but then they don't do that.  
3 There's, there's no documentation as I've seen; and then the  
4 money just goes right back to Serv Pro, Serv Trust. So, I mean  
5 it's not really a capital contribution at all. Their  
6 contribution to me seems to be \$6,192. And I'm just trying to  
7 figure out why, why, why are we going through the hoops to do  
8 that in this transaction?

9 A Well, I lent the money, the \$300,000 to Serv Trust at  
10 the beginning and that money is --

11 Q But there was no note or anything at that time?

12 A I believe it was covered in the operating agreement.

13 Q Okay.

14 A I'm sorry, the first-amended restated operating  
15 agreement. So, initial capital contributions in Section 3.2.1  
16 goes over the buying of the property and then, again, the, how  
17 the money flows in and out because of the language of the  
18 document, it's very, I need an attorney to kind of interpret  
19 it. But it's, it states in there how the monies --

20 Q Yeah, but they're saying, I mean it's defined as a  
21 gross asset value of the regional sales contract for the  
22 purpose of the property, \$300,000. So, it's characterized as,  
23 it looks like some type of payment out to, acknowledges some,  
24 some value they received for sort of a finder's fee. That's  
25 fine. I, I can certainly ask counsel if they can try to



1 describe to me how the payment was made and why it's due, and  
2 what the interaction between redeeming their interest and then  
3 seeking repayment of that money. All right. Anything else?  
4 Any questions based on my questions?

5 MR. PELLETIER: I have no questions based on your  
6 questions, Your Honor.

7 (Witness excused.)

8 MR. PELLETIER: I would just move in the Exhibits 23  
9 to, I think it's 27, Plaintiff's, 6789 Goldsboro's.

10 THE COURT: All right. THE COURT: To the extent we  
11 haven't admitted 23 through 27, I'll receive. I did have an  
12 extra copy of the last exhibit that was in here.

13 MR. PELLETIER: I can come up and get it when, when,  
14 when you tell me to.

15 THE COURT: Didn't need to scan it twice. I don't  
16 know how we're going to scan it. It's over-sized, so, so,  
17 we'll --

18 THE CLERK: I'll figure it out.

19 THE COURT: Well, all right. All right.

20 (The items marked for  
21 identification as Plaintiffs'  
22 Exhibit Nos. 26, 27 were received  
23 in evidence.)

24 MR. PELLETIER: Your Honor, and if Your Honor is  
25 willing to hear, we would put on Ms. Wilburn as, on evidence of

1 attorneys' fees.

2 THE COURT: Yeah, I think it's probably appropriate  
3 just to make sure that there's a basis for the charges and the  
4 reasonableness of the fees, and the amount, and -- she was  
5 never sworn.

6 FRANCES WILBURN  
7 called as a witness on behalf of the plaintiffs, having been  
8 first duly sworn, was examined and testified as follows:

9 THE COURT: All right. You can have a seat and make  
10 yourself comfortable.

11 THE WITNESS: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. PELLETIER:

14 Q Ms. Wilburn, where were you on the night of -- I've  
15 always wanted to do that. I've had it done to me. So, if you  
16 could state your full name for the record?

17 A Frances C. Wilburn.

18 Q And what do you do for a living?

19 A I am an attorney with the law firm of Offit Kurman.

20 Q And when you say you're an attorney, what, what state  
21 bars are you, have you been licensed by?

22 A Yes, I am admitted to practice in the Commonwealth of  
23 Virginia since 2008, the state of Maryland since January of  
24 2008 and the District of Columbia since 2008.

25 Q And can you explain to me what type of law you



1 practice?

2 A Yes, I would characterize it as commercial  
3 litigation. The majority of my cases deal with breach of  
4 promissory notes, breach of leases, breach of contracts and  
5 I've appeared in, before this Court over a hundred times.

6 Q This court meaning the circuit court, as opposed to  
7 this, Your Honor, Judge Lease?

8 A Correct.

9 Q Right. But you've appeared in front of Judge Lease?

10 A I have

11 Q Have you had a chance to go through what's been  
12 marked as Plaintiff's Exhibit 23 in this case which is the  
13 bills and WIP from Offit Kurman?

14 A Yes, I have.

15 Q And before we get into that, can you give me your  
16 general description of what this case -- strike that. Have you  
17 been involved in representing, excuse me, 6789 Goldsboro, LLC,  
18 since the inception of this case or very close to it?

19 A Yes. I became involved in late fall of 2018. I was  
20 involved in drafting pleadings. This case involves the  
21 collection and the pursuit of remedies under a promissory note  
22 and hopeful collection. I took the deposition of Mr. Myers. I  
23 prepared for the deposition. There were various motions,  
24 dispositive motions. There are dueling bankruptcy proceedings  
25 and we were monitoring those to see what the status of the



1 bankruptcy would do to our case, 6789's case. We prepared for  
2 this trial. We prepared our witnesses. We reviewed and  
3 advised on motions that were filed as recently as, by Mr. Myers  
4 as recently as Friday.

5 Q And, and part of that representation included filings  
6 in the bankruptcy court?

7 A Yes.

8 Q Okay. That's the Maryland Bankruptcy Court?

9 A Correct, including our proof of claim.

10 Q So, Ms. Wilburn, you said you've been practicing law  
11 in the state of Maryland for 13 years?

12 A Yes.

13 Q And have you ever opined as to attorneys' fees  
14 previously?

15 A I have never been qualified as an expert to opine on  
16 attorneys' fees.

17 Q And have you reviewed bills for attorneys' fees from,  
18 during the course of your practice?

19 A Yes.

20 Q And are, have you revealed, reviewed bills for  
21 attorneys' fees for firms other than Offit Kurman?

22 A Yes.

23 MR. PELLETIER: Your Honor, I'd move to have Ms.  
24 Wilburn qualified as an expert on the issue of attorneys' fees.

25 THE COURT: All right. I'll receive her as an expert

1 on the issue of attorneys' fees.

2 BY MR. PELLETTIER:

3 Q So, Ms. Wilburn, you've had a chance to review the  
4 bills that are listed in Exhibit 23 of plaintiffs' exhibits?

5 A Yes.

6 Q And do you have an opinion as to whether or not those  
7 bills are reasonable?

8 A Yes. My opinion is that the bills are fair and  
9 reasonable. The hourly rates charged by each attorney are fair  
10 and reasonable. The amount of time and labor required by this  
11 case necessitated the time and expense that the attorneys from  
12 Offit Kurman provided. This, these are fees that are  
13 customarily charged in this area. This case has been pending  
14 since, Offit Kurman has been involved in the case for four  
15 years due to the duration of time. I think that the total  
16 charges are very fair and reasonable and I think the  
17 experience, reputation and ability of myself and Mr. Pelletier  
18 dictate that the attorneys' fees are fair and reasonable in  
19 this instance.

20 Q So, I, I suspect you're laughing as to my  
21 qualifications, but that's okay. As far as the, the, the tenor  
22 of the opponent and the litigiousness of the opponent, does  
23 that factor into your opinion at all?

24 A Yes, it does.

25 Q How so?



1           A       Mr. Myers has filed multiple motions in this case,  
2 multiple bankruptcies, sent multiple emails to counsel over the  
3 last four years and I think that has definitely played impact  
4 on the total amount of the attorneys' fees in this case and our  
5 responses, I think, were fair, reasonable and necessary.

6           Q       And, and what about the timing of Mr., Mr. Myers'  
7 filings of motions in this case, can you, can you characterize  
8 that?

9           A       They were typically done at the last minute. We were  
10 all scrambling to try to file out-of-court responses.

11           MR. PELLETIER: Your Honor, I have no further  
12 questions. I believe Ms. Wilburn has opined as to the  
13 reasonableness of these fees, unless Your Honor has some  
14 questions of her.

15           THE COURT: Just a quick question.

16           BY THE COURT:

17           Q       In terms of the rates that, that are charged, do you  
18 find that his rates are customary among attorneys of similar  
19 backgrounds in the Montgomery County area?

20           A       Yes, I do.

21           Q       And in looking at the bills when you reviewed them,  
22 did you review to see if there was any overlap with anything  
23 that the King defendants were doing in the case such that work  
24 that was done could have simply ben piggybacked on their  
25 filings?

1           A     I did review that and I also compared it to the  
2 docket, which I printed out and reviewed, and I found that  
3 there was no overlap.

4           Q     Okay. All right. Thank you. Any questions --

5           A     Thank you.

6           Q     -- based on my questions? I should ask counsel --

7           MR. MASTRO: No, Your Honor.

8           THE COURT: -- if you had any questions?

9           MR. MASTRO: No, Your Honor.

10          THE COURT: All right. All right. Thank you.

11          MR. PELLETIER: Thank you, Your Honor.

12          (Witness excused.)

13          THE COURT: So, that's the plaintiffs' case, second  
14 case, I would guess. No additional witnesses?

15          MR. PELLETIER: No witnesses from me, Your Honor.

16          THE COURT: All right. All right. So, unless you  
17 have any type of rebuttal --

18          MR. VERSTANDIG: Your Honor, to the extent we  
19 haven't, I guess, retract, we would rest. We have not rebuttal  
20 today.

21          THE COURT: Okay. So, we'll rest. I'll note that  
22 the exhibits, I think all exhibits have been admitted at this  
23 point. So, I'll take, everyone, how long do we think we want  
24 to argue?

25          MR. VERSTANDIG: Your Honor, I'm going to have one





1 motion before argument which will take about 30 seconds.

2 THE COURT: Okay.

3 MR. VERSTANDIG: And then I anticipate my closing  
4 will be 10 minutes, which in my experience means it will be 25  
5 minutes.

6 THE COURT: Okay. All right.

7 MR. VERSTANDIG: And we'll --

8 THE COURT: All right. And there's, I'm just trying  
9 to think. I think we can get it in before lunch if we, maybe  
10 I'd love to shoot, and then I'll adjourn for lunch at 1 o'clock  
11 if we don't have it, finished it up at that point, all right?

12 MR. VERSTANDIG: Your Honor, if, at this time if all  
13 parties have resented pursuant to Maryland Rule 2-519, we move  
14 for judgment as a matter of law on the affirmative claims for  
15 the Serv Trust, I'm sorry, brought by Serv Trust. There's no  
16 evidence to support any of the claims as annunciated in the  
17 most recent pleading by Serv Trust; and to the contrary, the  
18 uncontradicted records reveals that the core assertion  
19 underlying those claims, mainly, that the buyout agreement was  
20 properly contradicted \$1 million is fictitious, fraudulent and  
21 belied by fact. Accordingly, we ask for judgment as a matter  
22 of law to Serv Trust's claims brought on the (unintelligible).

23 THE COURT: Had they filed an amended complaint?

24 MR. VERSTANDIG: Yes, I can tell you what the  
25 operative pleading is if you give me a second. There is a

1 second-amended counterclaim that was docketed January 10, 2019.

2 THE COURT: January 10, 2019?

3 MR. VERSTANDIG: Yes.

4 THE COURT: All right. All right. So, does anyone  
5 else want to be heard?

6 (No affirmative response.)

7 THE COURT: Just to make it short, okay, on that  
8 motion?

9 MR. PELLETIER: I, I don't have, I don't.

10 THE COURT: Because I don't know if, if their claims  
11 went to your claim also.

12 MR. PELLETIER: We would move for, affirmatively on  
13 our claim. I don't think there's any dispute of fact.

14 THE COURT: Because I thought it was, I'm not sure if  
15 it did or not, but it may have been all included in the sense  
16 that they were, your claims were supposed be paid from that.  
17 So, based upon the fact that Serv Trust has failed to appear,  
18 or failed to present any evidence in support of its  
19 counterclaim, the second-amended counterclaim, which was filed  
20 on January 10, 2019, I'll grant the motion for judgment given  
21 the fact that there's lack of any evidence to support it.

22 Moreover, I would note that the evidence that was  
23 presented in court, that on a motion for judgment in a bench  
24 trial the Court is allowed to make factual findings. It is not  
25 required to look at the case in the light most favorable to the



1 party. We would note that the facts as presented in this Court  
2 suggest that the basis for the underlying claims that there was  
3 an affirmative acceptance, a timely acceptance of the offer is,  
4 I just simply don't find that to be accurate and, and it  
5 appears to be a bit manufactured.

6 MR. VERSTANDIG: Thank you, Your Honor.

7 THE COURT: All right.

8 MR. VERSTANDIG: Your Honor, if I may be heard in  
9 closing?

10 THE COURT: You may.

11 MR. VERSTANDIG: Thank you.

12 CLOSING ARGUMENT BY MAURICE VERSTANDIG, ESQ.

13 ON BEHALF OF THE PLAINTIFFS

14 MR. VERSTANDIG: Your Honor, we are down to two  
15 issues as it concerns my clients. The first is the alter ego  
16 issue referenced in our opening and the second is the  
17 redemption issue referenced in our opening.

18 Because we moved the exhibits cumulatively, and while  
19 Mr. King did speak to some of the things in there, we never  
20 necessarily got into the meat, I'd like to walk through some of  
21 what is contained in our binder in the examination review.

22 And I'll start with the myriad of checks and wire  
23 transfers from Serv Trust, Joint Exhibits 11 and 12. If the  
24 Court were to sit down and scrutinize every single page of  
25 those exhibits, the Court would discover that during the





1 relevant time period, which is the only time period for which  
2 we have records which would share specific dates, \$1.371  
3 million and change exited Serv Trust accounts. And of the  
4 \$1.371 million and change, \$783,150 went to Gregory B. Myers.  
5 And I don't mean indirectly. I mean either the check was made  
6 to him or the wire went to him. \$434,525 went to Barbara Ann  
7 Kelly, who was identified in evidence as Mr. Myers' wife.  
8 16,825 went to various courts. \$16,713.33 went to legal fees  
9 and my favorite, \$4,911.73 went to country club dues.

10 And I also want the record to show, though, that  
11 we're being candid and our contention is that this was from Mr.  
12 Myers, and by extension his wife, and wasn't really for his  
13 children. I will tell you that if you sat down and looked at  
14 everything, you would see there are \$64,527 in distributions  
15 for the children's schools and housing based upon the  
16 memorandum lines on the checks and the reasonable extrapolation  
17 of the parties to whom the checks were made payable. We are  
18 surmising that if it's payable to a private school, it was  
19 likely for the tuition for one of his kids. In one case, there  
20 was a check to what appears to be, again based on the memo  
21 line, an apartment complex and some suggestion that it's for  
22 one of his kids to live there and credit it to them.

23 So, of the 1.371 million and change, just over 64,000  
24 went to his children; and by contract, 783,150 went to him;  
25 434,525 went to his wife; and let's not forget the \$4,900 that



1 went to Kenwood Country Club.

2 We talked about --

3 THE COURT: Let me ask you this. Do, is in here, has  
4 there ever been a, produced or presented a copy of Serv Trust's  
5 trust agreement?

6 MR. VERSTANDIG: Your Honor, we have it. It is  
7 notably not in our, it is not in evidence.

8 THE COURT: Is there, I'm trying to figure out who,  
9 who are the, I mean who are the beneficiaries of the trust?

10 MR. VERSTANDIG: My understanding is that it's for  
11 the benefit of his children.

12 THE COURT: His children? Okay.

13 MR. VERSTANDIG: I want to be careful with my  
14 words --

15 THE COURT: Okay.

16 MR. VERSTANDIG: -- about having it in front of me.  
17 Yeah, it was always represented it was, you know, for the  
18 benefit of his children. That's why I took some care to note  
19 that there are some tuition dollars and I cannot say --

20 THE COURT: Uh-huh.

21 MR. VERSTANDIG: -- that it's never benefited his  
22 children, but we point out that there is an --

23 THE COURT: That it -- it seems that it was not an  
24 irrevocable trust I take it?

25 MR. VERSTANDIG: Not to the best of my knowledge.

1 THE COURT: If it was, there would be a lot of  
2 problems with payments back to him and his wife, but okay. And  
3 then when you think of it, just a thought came up, you're  
4 saying it's all alter ego of Mr. Myers, but you also may want  
5 to address why wouldn't it potentially be an alter ego of Ms.  
6 Kelly?

7 MR. VERSTANDIG: Your Honor, I think actually the law  
8 on alter ego is instructive on our, when we give  
9 (unintelligible). The law on alter ego in Maryland is the  
10 Hildreth case, which you saw in our papers, but for the record,  
11 838 A.2d 120, honest to God, I don't know if it's 4709, or  
12 something, from the then Court of Appeals in 2003. It sets  
13 forth three elements for the establishment of an alter ego  
14 which I'll paraphrase.

15 First, is that the individual must have exercised  
16 dominion and must have done so singularly. So, here we would  
17 say that the evidence shows that Mr. Myers exercised singular  
18 dominion over the affairs of Serv Pro. I think the record  
19 evidence is that in a variety of ways one almost every single  
20 check, albeit not literally every single check, there's Mr.  
21 Myers' signature. All of these dealings of an informal  
22 natural, the emails, et cetera, are by Mr. Myers and to Mr.  
23 Myers. We would actually see anecdotally in this case that  
24 when Mr. Myers showed up and tried to file a motion to dismiss  
25 in proper person on behalf of the trust, he did so

1 individually. Periodically, you do see references to another  
2 trustee named Daniel Ring, whose name does appear on some  
3 signature blocks. I think we want to be candid, we believe his  
4 signature may be on a few of those checks, or some signatures  
5 that don't look like the others; but by and large, this was  
6 clearly dominated by Mr. Myers up to and including the effort  
7 to remove this matter to federal court late last Friday and  
8 some of these shenanigans, or whatever term, this morning.

9           Second prong under Hildreth is the use of the  
10 dominance for some equitable wrong or the advancement of a  
11 wrong. And your question was about his wife and I would point  
12 to the fact that the record just doesn't show her controlling  
13 the trust. We don't seem to know what's discussed in their  
14 bedroom, nor is it really our problem. It's under Maryland law  
15 to inquire. There's privilege there. But we don't actually  
16 see her in any of the emails. We don't see her signature on  
17 any checks. We don't see her name on any agreements.

18           What we do see, and I would argue this is not  
19 coincidental, is that the lion's share of distributions were  
20 made to Mr. Myers. And then if you look at his petition for  
21 bankruptcy relief which is Exhibit 2, and that's dated November  
22 18, 2015, the record establishes that on November 18, 2015, Mr.  
23 Myers became a debtor in bankruptcy. And I have to tell you,  
24 it's the darndest thing, not a single distribution to him  
25 thereafter. Suddenly, it all goes, well, almost all goes to



1 his wife.

2 I would point out that the one, two, three, four,  
3 five, six, seven, eight, nine, 10, the 11 distributions  
4 immediately preceding the date when he sought bankruptcy relief  
5 went to Mr. Myers, 15,000, 15,000, 30,000, 14,900, 15, 30, 30,  
6 15, 15, 15, 14,800; and then once he seeks bankruptcy relief,  
7 it all starts going to Barbara Ann Kelly; but the emails,  
8 coupled with Mr. King's testimony, even though it was going to  
9 Ms. Kelly, it was from Mr. Myers' expenditures, desires and  
10 lifestyle. He's the one who said he's getting F'd, and F'd is  
11 the actual word. He didn't spell out the word, fortunately.  
12 He's the one with the country club dues. He's the one who then  
13 in his bankruptcy has scheduled an asset as being the deposits  
14 in the Circuit Court for Walton County, Florida, even though we  
15 know from the checks those were really paid over by Serv Trust.  
16 It's Mr. Myers who says he needs money to pay his lawyers. And  
17 when Mr. Myers makes the threats at the end when the loans  
18 stop, he makes clear that he needs money for his purposes or  
19 bad things are going to happen.

20 So, I respect the question that it may well be that  
21 if Maryland didn't have a marital privilege and we lift the  
22 veil on what happened between Mr. Myers and Ms. Kelly, we could  
23 determine whether or not there is a hand behind the scenes; but  
24 there's simply no evidence that we were able to discern here in  
25 discovery and, respectfully, I said there's no evidence in the



1 record from today that shows her exercising any dominance. To  
2 the contrary, the evidence seems to show that many of the  
3 distributions to her, again, many, not all, I want to be  
4 careful with those words, seem to follow Mr. Myers' bankruptcy  
5 occurred at a time when he had money passing through this  
6 accounts that would be subject to outside scrutiny and seemed  
7 to be pretextual in nature with her acting as, you know, a  
8 shell in its furtherance.

9           Second Hildreth factor is use of that dominance to  
10 perpetrate an equitable wrong or a fraud. This is where the  
11 bankruptcy comes in. The testimony today is that Mr. Myers was  
12 deeply indebted at the time this project began and that the  
13 express reason for wanting to put the project in the name of  
14 Serv Trust as opposed to himself was so that it wouldn't be  
15 there and it would be accessible to his myriad of creditors.  
16 The ultimate creditor is represented in court. The ultimate  
17 creditor at the end of the day is Mr. Myers' trustee. He is  
18 the individual statutorily charged with marshalling Mr. Myers'  
19 assets pursuant to his 2015 bankruptcy in Maryland and as a  
20 matter of law, marshalling them and liquidating them, and  
21 dispersing the money to all the creditors in kind net of  
22 serving administrative expenses.

23           And we see that when Mr. Myers filed his schedules,  
24 the lists of all his assets, he claims the money in the court  
25 registry was his because he claims that property is his and

1 exempt as the tenants of the entirety; but he didn't claim Serv  
2 Trust was his. He didn't claim the trust in Goldsboro was his.  
3 In fact, if you look at the exhibit that is the bankruptcy  
4 court's revocation of Mr. Myers' discharge, which is number  
5 three, you'll see that one of the things Mr. Myers did was  
6 where he thought he had equity in properties and/or his wife  
7 owned, he would have Serv Trust put a lien on those properties  
8 so that it had an interest before any persons would be  
9 available for Mr. Myers' creditors. He has time and again used  
10 Serv Trust to hide and obstruct assets from the reach and view  
11 of his creditors. Mr. Schlossberg gave the ultimate  
12 exemplification incarnation of his creditors with Mr.  
13 Schlossberg being the person to divide the money and give it to  
14 those creditors. So, we have the second Hildreth factor and we  
15 also have the third which is the propagation of actual harm.  
16 And that's where the timeline in this case becomes interesting.  
17 When Mr. Myers sought bankruptcy relief in 2015, it was  
18 November 18th, he had not yet tried to defraud the Class A  
19 members of Goldsboro. The three years had not yet passed under  
20 the Goldsboro operating agreement. There had been no adverse  
21 rulings or intimations of rulings from any zoning bodies.

22 Now I don't mean to suggest the rulings would be  
23 different if he didn't go into bankruptcy. We have the benefit  
24 of hindsight and it turns out this may have been an ill-fated  
25 project; but at that moment in time, Mr. Schlossberg should

1 have been able to step in as the Class B member of Serv Trust,  
2 I'm sorry, of Goldsboro. And whether it be liquidated pursuant  
3 to the operating agreement, reach some sort of deal with the  
4 parties to sell the interest to them, actively participate,  
5 whatever he would deem appropriate as trustee, that was his  
6 asset, but he was denied it because Mr. Myers fraudulently  
7 concealed it.

8           Mr. Myers used it as his alter ego. Serv Trust was  
9 there to keep things away from his creditors, not to help him  
10 be earnest and candid under Title 11 of the United States Code  
11 in furtherance of his bankruptcy; and it looks like those were  
12 his designs from the beginning. I'm not sure Mr. King  
13 understood this was all going on. I'm not sure anyone would  
14 have understood it when someone, you know, has to put something  
15 in the name of something else, you just sort of shrug and say  
16 let's go forward. Those were the designs and we have evidence  
17 not only of paramount equitable wrongs because Mr. Myers'  
18 creditor case is defrauded, but before it. So, incident, we  
19 meet the alternate criteria.

20           And I know Mr. Mastro will want to eloquently speak  
21 to this, but we would also submit that the bankruptcy court's  
22 request to you to make a determination as to the applicability  
23 of the automatic stay ought to be understood as being  
24 coterminous with a determination of the alter ego question if  
25 the alter ego exists and if we prevail on that cause of action.



1 And I believe everyone in here is in accord that the  
2 automatic stay precludes you, no offense and I don't mean to --

3 THE COURT: Well, I understand the thought would be  
4 then Serv Trust is Myers' for the purpose of the bankruptcy;  
5 and so, any judgment against Serv Pro is de facto judgment  
6 against --

7 MR. VERSTANDIG: Right.

8 THE COURT: -- Myers?

9 MR. VERSTANDIG: It comes, Goldsboro's obligation to  
10 file a proof of claim in the bankruptcy and then either Mr.  
11 Mastro and I need to find a way to try to negotiate a deal; or  
12 I need to bring my redemption claim against Mr. Schlossberg in  
13 the bankruptcy court under Section 157, Title 28 in the United  
14 States Code, or what's known as a core proceeding because it's  
15 an action against the trustee at that point in time. But let  
16 me touch on the redemption side of it because we put on our  
17 evidence.

18 THE COURT: Right, but let me ask a question.  
19 Talking about what the Florida court did in terms of their  
20 order because I thought it was a very interesting order about  
21 Mr., because it said, it seemed to, I mean I, you can read the  
22 order two ways. You can read the order as saying that we're  
23 not to decide anything against, that would affect Myers  
24 individual; but that was if he, but it's in the sentence where  
25 it talks about if he is a trustee of Serv Pro. So, I guess



1 trying to, if you look at the sentence structure, it seems to  
2 be related only to that. I'm not giving it that reading, but I  
3 just didn't know if anybody thought about it that way because  
4 it seemed to be, you know, it says it's, you know, the stay is  
5 lifted. He says he's not a trustee and then it says, but if he  
6 is a trustee, then the case can pursue against him as trustee,  
7 but can't affect any individual liability. So, it seems to me  
8 that that relates to him being a trustee, not overall, but --

9 MR. VERSTANDIG: Well, I think that's accurate. I  
10 think that's accurate for three reasons. One, everyone is in  
11 accord the guaranteed claim against him did not proceed today.  
12 No one is trying to advance that claim. The stay is in place.  
13 We can't seek monetary relief (unintelligible).

14 Two is what you just said. A reasonable reading of  
15 that order clearly contemplates that relief against him as  
16 trustee, even if he were to become trustee again, is within the  
17 scope of what is being lifted. Three, I know I said I had  
18 three points, it's actually four. Three, the Maryland  
19 bankruptcy estate was created first. If Serv Trust is Mr.  
20 Myers' alter ego, that only impacts Mr. Myers and his creditor  
21 base as it existed on, I forget what date it was, November 18,  
22 2015, or something proximate thereto. As a matter of fact and  
23 law alike, but does not impact Mr. Myers or his creditor base  
24 because they existed when the Florida bankruptcy was filed  
25 which means the automatic stay arising under the Florida

1 bankruptcy wouldn't touch upon it. It was never part of the  
2 estate. It was never an action against him as he was there at  
3 that time. It's an action against him as a faux fiduciary as  
4 the law existed in November of 2015.

5 And I'll do one better. If I had put on a case today  
6 that showed Serv Trust was loyally and faithfully administered  
7 for the benefit of his children up until November of 2015, but  
8 then after Mr. Schlossberg was appointed as trustee, Myers got  
9 frustrated and started using it as his alter ego, then it  
10 wouldn't be Mr. Mastro's (unintelligible), it would have to be  
11 someone on behalf of the Florida bankruptcy trustee and it  
12 would be an issue related to the Florida bankruptcy which is  
13 the later filing.

14 Finally, as to the fourth point there, I would look  
15 at the order of remand which the Judge did us the benefit of  
16 saying it was for the reasons set forth in our emergency motion  
17 seeking a remand.

18 THE COURT: Yeah, but I don't have your emergency  
19 motion.

20 MR. VERSTANDIG: Then I could -- I think you do. It  
21 was sent to chambers.

22 THE COURT: Oh, was it? Okay.

23 MR. VERSTANDIG: Yeah, it was.

24 THE COURT: Okay.

25 MR. VERSTANDIG: If you need me to officially docket

1 it, I'm, I can ask you to take judicial notice of it. I think  
2 it's --

3 THE COURT: Is it, it was filed in the Florida  
4 bankruptcy?

5 MR. VERSTANDIG: It was filed in the Florida  
6 bankruptcy.

7 THE COURT: So, it's on ECF?

8 MR. VERSTANDIG: It's on ECF.

9 THE COURT: All right.

10 MR. VERSTANDIG: And --

11 THE COURT: Then I can take judicial notice --

12 MR. VERSTANDIG: -- a copy was sent to chambers.

13 THE COURT: -- and then I can take judicial notice --

14 MR. VERSTANDIG: Yeah.

15 THE COURT: -- of what was filed in ECF as it's a  
16 material that is commonly used by courts and lawyers to look at  
17 dockets and filings.

18 MR. VERSTANDIG: Your Honor, there's a multitude of  
19 arguments, and I'll be very candid, this all happened Friday  
20 and --

21 THE COURT: I understand.

22 MR. VERSTANDIG: -- my Friday night and Saturday  
23 morning were spent researching and drafting; but, one, the  
24 factual background set forth in the remand motion makes  
25 absolutely clear that we want to go forward this week and we're





1 asking for an emergency relief so we can to deal with the alter  
2 ego issues; and, two, one of the legal arguments we make is in  
3 favor of equitable extension. Now we do argue that they moved  
4 it to the wrong court, they removed it outside of the  
5 limitations period set forth in the applicable rules, that  
6 there's a jurisdictional defect, among other things, but we  
7 also think it's a bad faith renewal. And that goes to general  
8 comity.

9           And I think knowing the Florida court was cognizant  
10 that we wanted to move forward on these issues this week and  
11 that somehow, even though I didn't get my motion filed until  
12 the early hours of Saturday, we got a ruling out of the Florida  
13 Bankruptcy Court before the open of business today, with  
14 yesterday being a federal holiday. It evinces the Florida  
15 court knows what we plan on doing here and they're in favor of.  
16 So, I think you do have the jurisdiction requisite to rule on  
17 the alternative issues.

18           The redemption issues are much simpler. In Section  
19 7.5 and 7.7 of the operating agreement, which is Exhibit 1,  
20 based on your questions earlier, it sounds to me as though  
21 you've reviewed the pertinent language not going to sort of  
22 dryly read it back into the record; but at court, what Mr. King  
23 testified to, albeit it in legalese, at the end of three years  
24 there is an option to try to redeem the Class B interest. If  
25 the Class A members want to pursue that options, they exercise



1 their right to have the property appointed. The way they do  
2 that is by giving notice to the Class B member and designating  
3 an appraiser. The Class B member then has the right to pick  
4 its own appraiser. If the two appraisers come out with  
5 differing numbers that are materially different vis-à-vis the  
6 cumulative papal contributions that the Class A members to  
7 date, there's a mechanism to resolve that issue. If not, if  
8 the Class A contributions as of that date exceed the value of  
9 the property, the Class B and trustee is redeemed for  
10 consideration already rendered. And if it doesn't exceed the  
11 value of the property, the Class B and trustee moves on.  
12 There's actually, there's language in there that suggests the  
13 Class A members may not be allowed to do this again and again.  
14 It may be they only get one shot. We don't have to reach that  
15 question because we're here on the first shot; but it's pretty  
16 clear that the Class B interests have pretty good vested rights  
17 in the property if it appraises for more than what the Class A  
18 members have contributed. The problem is the Class A members  
19 contributed way more than what it appraised for. And because  
20 of Mr. Myers and Serv Trust intransigents, we don't have a  
21 countervailing appraisal. We have one appraisal that's in the  
22 record from between a million and a million 350. We have  
23 extensive evidence in the record that puts the Class A members'  
24 contributions, even withstanding the monies contributed, solely  
25 to be loaned to Serv Trust in excess of that number. And if

1 you consider the monies that were contributed to the company to  
2 be loaned to Serv Trust, it's actually more than  
3 (unintelligible).

4 So, we would respectfully submit that if Serv Trust  
5 is not Mr. Myers' alter ego, or if you choose not to reach the  
6 alter ego question, and no disrespect, I believe the record  
7 shows we have exercised the redemption mechanism in accord with  
8 the operating agreement and that Serv Trust has effectively  
9 waived any opportunity to argue the contract. They had 15 days  
10 to appoint a contrary appraiser. That was more than five years  
11 ago. No one was ever appointed. So, if you reach that issue,  
12 we would ask for a declaration that the Class B and trust has  
13 been redeemed. I will let Mr. Pelletier figure out what  
14 happens to \$300,000. That is neither my problem, nor my horse;  
15 but we believe it has been redeemed if we get there and that  
16 the Class A members, Mr. King, Mr. King's wife and the trust  
17 for the benefit of their children, which I'm assuming actually  
18 is for the benefit of their children, are the only members of  
19 6789 Goldsboro, LLC, as that entity exists today. Thank you,  
20 Your Honor.

21 THE COURT: All right. Thank you. All right.

22 CLOSING ARGUMENT BY ERIC PELLETIER, ESQ.

23 ON BEHALF OF THE PLAINTIFFS

24 MR. PELLETIER: Your Honor, Eric Pelletier for 6789  
25 Goldsboro. I, again, once again, will not be as eloquent as



1 Mr. VerStandig, and I will be brief.

2 I think our case has been very simple. We have put  
3 on evidence that there was a promissory note which provided for  
4 attorneys' fees and interest; and monies were loaned under that  
5 promissory note and have not been repaid in the sum total of  
6 \$1,264,737.76. The testimony and the evidence is  
7 uncontroverted.

8 The more interesting question that came up was what  
9 do we do, as Mr. VerStandig just referred to, the, with the  
10 \$300,000 problem? And during your questioning of Mr. King, you  
11 pointed out that there are terms up to five what this equity  
12 is, equity contribution, gross adjusted value or gross adjusted  
13 fair market value, I think, is what you pointed out is in the  
14 amended and restated operating agreement; but I think the  
15 evidence is far more simple than reading through the operating  
16 agreement and the various provisions of the tax code that it  
17 incorporates and so on, and it is.

18 Greg Myers contributed 6,100, and I think it's \$24,  
19 initially to put into Goldsboro. He also received \$300,000 on  
20 top of that. So, the number comes up to the number listed in  
21 the back of the amended and restated operating agreement,  
22 306,000 and change.

23 But, subsequently, there was an oral agreement that  
24 the money would be given to Mr. Myers, Serv Trust, Serv Trust,  
25 I want to emphasize that, but it would be repaid. And so it is





1 that, that number may not fall within the, the written  
2 promissory note in terms of what was loaned because it was an  
3 early-on loan, as Mr. King testified. It was loaned at the  
4 very beginning.

5           It came back out at the beginning but, nonetheless,  
6 Mr. Myers got the money. Mr. VerStandig has explained that Mr.  
7 Myers has sat on his hands and stonewalled every aspect of this  
8 case, including appraisal of property, so on and so forth; but  
9 the bottom line is there was a subsequent oral agreement money  
10 was going to be, would be given to Serv Trust and it would be  
11 repaid. That's where we are on the \$300,000. There's no  
12 question that Serv Trust go that \$300,000 and it hasn't been  
13 repaid.

14           So, and to the extent I can amend the, conform to the  
15 truth, we have a proof, rather, we have a promissory estoppel  
16 detrimental reliance claim in Count 3 and ask that Serv Trust,  
17 which is the party we're pursuing today, I think that applies  
18 because if the money wouldn't have been loaned, I think Mr.  
19 King testified if, if he knew it wasn't going to be repaid.  
20 There was an agreement that it would repaid.

21           THE COURT: But I mean that turns every contract  
22 claim into a fraud claim if you, in essence, what you're saying  
23 is, you know, I wouldn't have lent them money if I knew it  
24 wasn't going to be repaid; but to your extent alone, it doesn't  
25 get repaid, that doesn't make it, right, it only has, it only





1 becomes fraudulent if at the time that the money was received  
2 that it, that the person who received it had no intention of  
3 repaying it.

4 MR. PELLETIER: Well, but here's the thing. It's  
5 not, I'm not arguing for fraud. I mean there is an element of  
6 fraud in Mr. VerStandig's case in, in paramount equity and all  
7 that stuff.

8 THE COURT: Right.

9 MR. PELLETIER: And it's certainly here in the  
10 evidence, but what I'm saying, it's promissory estoppel. You  
11 know, I changed my position giving, I being Mr. King, changing  
12 position by loaning the money with the understanding that it  
13 would be repaid and it hasn't been repaid and damage has  
14 ensued; or if you don't want to look at it under that lense of  
15 quasi-contract, we, we would ask the Court to allow us to amend  
16 to conform to the proof for an unjust enrichment claim because  
17 there's no question that Serv Trust got this money and there's  
18 no question that it's unfair for them, they've received the  
19 benefit, they know they've received the benefit and it's, it's  
20 inequitable for them to retain that sum.

21 THE COURT: Well, but okay, I mean it may or may not  
22 be, it would be inequitable for nothing, but they brought this  
23 opportunity. It's 6789 Goldsboro to the King parties and so --

24 MR. PELLETIER: Right. And --

25 THE COURT: -- in essence, they said, oh, this is a

1 great opportunity. Mr. King testified that he thought it had  
2 worth even after he's given out hundreds of thousands of  
3 dollars to Mr. Myers, he still thinks it's got, that he's going  
4 to, he's not loaned him that money thinking it's not coming  
5 back; and he's thinking it's coming back from the sale and --

6 MR. PELLETIER: Well, so, here's the thing, Your  
7 Honor. And, and, and, and Mr. VerStandig, and there's in  
8 evidence, there is an appraisal that Mr. King, or the King  
9 family, or 6789 received; and Your Honor has been practicing  
10 law for a long time. You know what happens when, when parties  
11 have competing evaluations. The other side gets a valuation  
12 and says, oh, that property is worth, sorry about that, worth,  
13 worth \$3 million.

14 THE COURT: Right.

15 MR. PELLETIER: And that's where Mr. Myers would get  
16 his, you know, get his benefit back on that \$300,000 capital  
17 investment; but he just won't do that. He's, he has foiled the  
18 process by not cooperating in any respect ever in this case.  
19 He's only taken money, just the taking of all the money; and  
20 you've heard, you know, now hours of testimony about where the  
21 money went. We've got documents that show how it was used.  
22 There is a fog of inequity around this, notwithstanding the  
23 fact that above it all, Mr. Myers is sitting on his hands so  
24 that if he wanted to get that, that, that, that property, that  
25 value back in his capital contribution, quote, unquote,

1 "306,000 and change," they could sell the property and see  
2 where it lands; but, but that in itself has been frustrating.

3 THE COURT: But he can't now because he wants me to  
4 redeem that interest so that he will get nothing.

5 MR. PELLETIER: Well, and, and I, then that's as far  
6 as I'm going to go on that for that reason. So, but I'm just  
7 saying there is inequity that the last element of unjust  
8 enrichment. So, I, with that, I'll submit. I think we've  
9 proven our case to the tune of \$1.5 million. You, you, you  
10 have the numbers in front of you and, you know, again, my  
11 arguments today have by, by virtue of the lingering bankruptcy  
12 issues, they are somewhat secondary because we don't know  
13 what's going to happen with alter ego and so on.

14 THE COURT: Let me ask you this. Counsel --

15 MR. PELLETIER: Thank you.

16 THE COURT: -- Mr. VerStandig says he thinks  
17 everybody is in agreement that if I find an alter ego that, in  
18 essence, then I lose my jurisdiction here, not necessarily  
19 ultimately, but I, I'm stayed at that point from finding in  
20 your favor based on the evidence today. Do you agree with that  
21 or disagree with that?

22 MR. PELLETIER: Well, I, I think, I'm going to be  
23 frank with the Court and candid, we talked into, over the  
24 weekend we had planned that I wouldn't put on any proof and  
25 that Your, Your Honor would rule on the alter ego issues and I



1 would just sit here and, and with Ms. Wilburn and, you know,  
2 try and be productive.

3 THE COURT: Okay.

4 MR. PELLETIER: But, but I, we understand that, Your  
5 Honor.

6 THE COURT: Okay. So, the, all right. I just want  
7 to make sure. All right. I'm happy to hear from the trustee  
8 because --

9 MR. MASTRO: Thank you, Your Honor.

10 THE COURT: -- in essence, what I'm hearing is that  
11 you ultimately are the one that would be claiming that you were  
12 defrauded or suffered fraud as a result of an alter ego issue?

13 CLOSING ARGUMENT BY FRANK MASTRO, ESQ.

14 ON BEHALF OF THE DEFENDANTS

15 MR. MASTRO: That's, that's right, Your Honor, and I  
16 think --

17 THE COURT: Okay.

18 MR. MASTRO: -- what I wanted to address was I think  
19 there may have been some confusion stemming from the order of  
20 abstention as to the applicability of the stay. And just to  
21 put things in context, I had a chance to kind of re-review this  
22 this morning and Mr. VerStandig referred to the Exhibit 3,  
23 which is the memorandum opinion denying the debtor a discharge.  
24 That's from September 28, 2018. A month later, and this is  
25 recited in the first paragraph of the order of abstention,



1 there is the adversary proceeding, the alter ego adversary  
2 proceeding is filed in the bankruptcy court. That's --

3 THE COURT: Okay.

4 MR. MASTRO: -- October 29, 2018.

5 THE COURT: All right. So, you're clear that the  
6 alter ego issue was at issue in the abstention?

7 MR. MASTRO: Right.

8 THE COURT: Okay.

9 MR. MASTRO: It was filed as an adversary in the  
10 bankruptcy court. And at the same time that adversary was  
11 going on, there was a proceeding here in Montgomery County that  
12 involved all of the claims today, except the alter ego.

13 THE COURT: Right.

14 MR. MASTRO: Okay? And then what happened was the  
15 very next day and this is, I think, on page 2 of the order of  
16 abstention, the plaintiff in the, in the adversary proceeding  
17 files a motion asking the court, the bankruptcy court, to  
18 declare whether or not the stay applies to the existing claims  
19 in Montgomery County here regarding the claims of six, seven,  
20 eight, nine, and the redemption claim that Mr. VerStandig is  
21 also litigating. So, and the argument being made in bankruptcy  
22 court is that these matters in Montgomery County should be  
23 stayed because if Serv Trust is deemed to be the alter ego of  
24 Mr. Myers, then the automatic stay is going to take effect.

25 THE COURT: Right.

1 MR. MASTRO: And the way the bankruptcy court deals  
2 with this is the bankruptcy court says, number one, I'm going  
3 to abstain on deciding the alter ego issue. That's really a  
4 matter of state law. The state court, Your Honor, here in  
5 Montgomery County, you can decide that.

6 And as to whether the automatic stay applies to the  
7 remaining claims, the claims of Goldsboro and the redemption  
8 claim, that can be, that can be determined, the applicability  
9 of the stay can be determined in this court. And, ultimately,  
10 when we, when Mr. VerStandig filed the amended complaint with  
11 the alter ego claim, the motion to determine the automatic  
12 stay, I guess, never was revived. So, I don't know that  
13 there's any motion before this Court right now to determine the  
14 automatic stay; but to the extent the Court wants to get a  
15 handle on that and, and understand that, we submit that, number  
16 one, the automatic stay in the Maryland bankruptcy does not  
17 apply, clearly does not apply to the alter ego claim --

18 THE COURT: Right.

19 MR. MASTRO: -- because that claim, the Maryland  
20 Bankruptcy Court said, no, you got to decide it, Judge Lease,  
21 here in Montgomery County. This is an estate court matter.

22 As for the, the other claims, the claims of the  
23 Goldsboro and the redemption claim, those claims, we would  
24 submit, it's, it's pretty easy if you decide the alter ego  
25 claim first --

1 THE COURT: Uh-huh.

2 MR. MASTRO: -- because then if you find that Serv  
3 Trust is the alter ego of Mr. Myers, then the stay is going to  
4 apply because then their, their judgments they are seeking  
5 against Serv Trust become judgments they are seeking against  
6 Mr. Myers. If, on the other hand, you find that Serv Trust is  
7 not the alter ego, then the stay clearly doesn't apply because  
8 you're seeking judgments against Serv Trust and that Serv Trust  
9 is a separate and distinct entity for Mr. Myers. That's the  
10 easy way to resolve it.

11 Whether this Court wants to get into some  
12 determination, well, you know, can I decide the claims of Serv  
13 Trust and the redemption claim, or the claims of Goldsboro  
14 against Serv Trust and the redemption claim while the alter ego  
15 is pending, that, that gets a little more harry. We'd submit  
16 that because, for the same reasons that were argued in the  
17 bankruptcy court, that because ultimately there's the  
18 possibility that Serv Trust could be determined to be the alter  
19 ego, that those claims should be deferred pending that  
20 resolution by this Court. So, I think that's really the  
21 threshold --

22 THE COURT: Uh-huh.

23 MR. MASTRO: -- issue that needs to be determined.  
24 And the bankruptcy trustee, obviously, has, has been patient  
25 through all the machinations by Mr. Myers going down to





1 Florida, coming back here and we, we'd simply ask the Court to  
2 rule on that issue at this time.

3 THE COURT: And do you, do you agree that if by  
4 ruling on the alter ego issue that I'm, if I'm saying,  
5 theoretically, ruled that, that it was an alter ego, that that  
6 would then, wouldn't affect Mr. Myers in his Florida bankruptcy  
7 because the asset would have been an asset of his Chapter 7  
8 bankruptcy which was previous, or filed prior to the Florida  
9 bankruptcy?

10 MR. MASTRO: Correct.

11 THE COURT: Okay.

12 MR. MASTRO: Correct, because this goes to the, the  
13 alter ego predates, pre, pre, it's pre-petition as to the --

14 THE COURT: Right.

15 MR. MASTRO: -- Maryland bankruptcy; so, therefore,  
16 it's an asset that once he filed the Maryland bankruptcy, that  
17 becomes an asset of the Maryland bankruptcy estate.

18 THE COURT: Right.

19 MR. MASTRO: What he does afterward has no effect on  
20 the status of that particular asset.

21 THE COURT: Okay. All right.

22 MR. MASTRO: Thank you, Your Honor.

23 THE COURT: Thank you. All right. Anybody want to  
24 be heard in response to anything that, the questions that I had  
25 or anything else?



1 MR. VERSTANDIG: Very briefly, Your Honor. I want to  
2 address one point that you raised at the beginning today which  
3 went to the finality of judgments.

4 THE COURT: Uh-huh.

5 MR. VERSTANDIG: And I want to be very careful not to  
6 waive the grounds of procedure.

7 THE COURT: Well, here is what I would say. With  
8 respect to, I think, following what the, I think it was the  
9 trustee said is if I find that there's alter ego and from what  
10 the agreement is, is that I find that, and then I have to stay  
11 the balance of the case --

12 MR. VERSTANDIG: But --

13 THE COURT: -- pending further action in the  
14 bankruptcy court.

15 MR. VERSTANDIG: I would concur with that and without  
16 finding, like you don't even, beyond, if you make that finding,  
17 I strongly suspect, irony being well-appreciated, that one of  
18 us will then remove this case to the Maryland Bankruptcy Court  
19 to take it off your plate.

20 THE COURT: Okay. Well, understood. Great. And  
21 just, I don't, I don't think it's, I don't think I have a clear  
22 picture of how the two bankruptcies are working together and  
23 actually have a good idea of that. All right. I do have a lot  
24 of material that I'm going to look at. I'm going to look at  
25 what was reviewed there, but I, I want to get this resolved

1 today. I don't know how far everybody has traveled to be  
2 here --

3 MR. VERSTANDIG: Far.

4 THE COURT: Far? Okay.

5 MR. PELLETIER: No far for us. We're Main, Maryland.

6 THE COURT: Okay.

7 MR. MASTRO: I'm in Maryland.

8 THE COURT: Well, you're --

9 MR. MASTRO: So --

10 THE COURT: -- so you're not going out of town?

11 MR. MASTRO: No.

12 THE COURT: You're not, wouldn't go back to Baltimore  
13 or somewhere for your office or something? You, what I want to  
14 do, I want to bring you back around 3:30 --

15 MR. MASTRO: Okay.

16 THE COURT: -- to give the ruling. That way I've had  
17 an opportunity to review a lot of documents here and figure out  
18 what I have to review to make a decision. I will then put  
19 together my thoughts so I can make a ruling today, but I don't  
20 want to put this off any further and you'll get your ruling  
21 today; but get you back at 3:30, or is everybody okay? I mean  
22 I, I, if somebody wants to go back to your, you know, office?

23 MR. MASTRO: That works for me, Your Honor.

24 THE COURT: Okay. All right. We'll see everybody  
25 back at 3:30.

1 MR. PELLETIER: Thank you, Your Honor.

2 MS. WILBURN: Thank you, Your Honor.

3 MR. VERSTANDIG: Thank you.

4 THE COURT: Yeah. Do you need this?

5 THE CLERK: Yes, I do.

6 THE COURT: I thought so. All right. Great. Thank  
7 you all. Have a great lunch and we'll see you this afternoon.

8 THE BAILIFF: All rise.

9 THE CLERK: The Court stands in recess.

10 MS. WILBURN: Your Honor, can we leave the, our  
11 materials in here until 3:30?

12 THE COURT: Sure, yeah.

13 (Recess.)

14 THE BAILIFF: All rise. The Circuit Court for  
15 Montgomery County is back in session. The Honorable David  
16 Warren Lease presiding.

17 THE COURT: All right. Good afternoon, everyone.  
18 Please be seated.

19 THE CLERK: Calling, recalling Case No. 436977V,  
20 Brian King, et al. v. Serv Trust, et al.

21 THE COURT: Okay. Let's go ahead and have the  
22 parties just identify yourselves for the record, please.

23 MR. VERSTANDIG: Good afternoon, Your Honor. Maurice  
24 VerStandig on behalf of Brian King, Cristina King and the  
25 Cristina and Brian King Children's Trust. I'm joined in the



1 courtroom by Brian King, who is seated to my left.

2 THE COURT: All right.

3 MR. PELLETIER: Eric Pelletier and Frances Wilburn  
4 here for 6789 Goldsboro, LLC.

5 THE COURT: All right.

6 MR. MASTRO: Good afternoon, Your Honor. Frank  
7 Mastro on behalf of nominal defendant Roger Schlossberg,  
8 Chapter 7 Bankruptcy Trustee.

9 THE COURT: All right. Good afternoon. And my  
10 understanding is that Mr. Myers has joined us by Zoom, is that  
11 correct?

12 MR. MYERS: (No affirmative response.)

13 THE CLERK: Yes.

14 THE COURT: Okay.

15 MR. MYERS: I was told to be silent, Your Honor.  
16 Thank you.

17 THE COURT: Okay. Well, I, I just, we're just here  
18 for the ruling, but I just want to make sure that the record  
19 reflects that you're here on the record. I will let you know  
20 that this morning in your absence I did rule on your motion  
21 for, to disqualify me. I felt that that was before the Court  
22 and that before I could proceed, I did need to address that  
23 motion. I did address that motion. I denied the motion  
24 primarily for the reasons that I denied it last year, which was  
25 an oral motion that you had made, but I did want to let you



1 know that that was done.

2           This matter is before the Court for trial today. It  
3 really sets forth sort of two different tracks as to how the  
4 case would proceed and it primarily resolves from the order of  
5 abstention issued by the United States Bankruptcy Court back on  
6 January 30, 2019. In that order, Judge Lipp at the time  
7 specifically remanded the case or abstained from the case so  
8 that this Court could determine the, the application of the  
9 automatic stay based upon the relationship between the debtor  
10 and Serv Trust, then, and then making that determination  
11 whether or not the stay would be applied; and if so, then the  
12 parties would come back to the bankruptcy court to figure out  
13 how to proceed. So, that's sort of the, the preliminary issue  
14 is that the question as to whether or not Serv Trust served as  
15 the argument being an alter ego or whether it should be  
16 disregarded under the caselaw that was before the Court. If  
17 the Court makes the determination that Serv Trust is, indeed,  
18 an alter ego or that the trust entity should be disregarded for  
19 the purposes of the litigation, then the matter would be stayed  
20 and the matter would be then referred to the bankruptcy court  
21 in Maryland for further proceedings.

22           If, however, the Court determines that the, there is  
23 not an alter ego relationship, or that the entity should be  
24 disregarded, then the Court could proceed with respect to the  
25 claims against that entity only for the purposes of today's



1 proceedings. Those were the claims primarily as to whether  
2 there was an appropriate redemption of Serv Trust's interest in  
3 6789 Goldsboro Road, LLC, and the second would be whether the  
4 amount of the promissory notes and the claim for promissory  
5 estoppel by 6789 Goldsboro Road against Serv Trust should be  
6 adjudicated in the amount of that judgment should be. That  
7 would be without effect on Mr. Myers; and as I pointed out this  
8 morning, under the Frow Doctrine, if Mr. Myers ultimately was  
9 successful in reducing or showing that that amount and  
10 ultimately was not due to, was not owed by Serv Trust, Serv  
11 Trust would be entitled to take advantage of that finding and  
12 that you can't have incongruent judgments, the Frow case, which  
13 is a United States Supreme Court case, which has been  
14 recognized in Maryland, dates back into the early 1800s.

15           So, initially, the Court has to determine whether or  
16 not the Serv Trust served as an alter ego -- can you go in? I  
17 just let a few of my papers in the chambers. Pull the stuff  
18 off my desk that's highlighted. I think I've got everything.  
19 All right.

20                           JUDGE'S RULING

21           THE COURT: Well, I'll note at the outset that Serv  
22 Trust, there's an issue as to whether it is a statutory trust  
23 or if it is a non-statutory trust. Ultimately, that issue did  
24 not become material for me.

25                           (Discussion off the record.)



1 THE COURT: All right. So, as I mentioned, the  
2 Court, I didn't find that it was actually material regardless  
3 of whether it was a statutory or non-statutory bill. I do note  
4 that under the Doctrine of Judicial Admission, that I do find  
5 that it was statutory in the sense that Mr. Myers had filed a  
6 document with the Court noting and signing it on behalf as the,  
7 that it was a statutory trust and that it was set forth in his  
8 motion for intervention which was Plaintiff's Exhibit 13 in the  
9 matter. At the time it says, bar, and it says, well, the  
10 documents that are associated with it note that and the  
11 signature page itself. That's, that's on page 7 of the motion.  
12 It says, "Serv Trust, a Maryland statutory trust signed by Mr.  
13 Myers, trustee," and that, it's set forth as a judicial  
14 admission for the purposes of this proceeding.

15 So, the parties have argued that the Court should  
16 view Serv Trust as an alter ego of Mr. Myers and that arguing  
17 that under the case of, that Hildreth v. Tidewater Equipment  
18 Company, Inc. case, that noted that the Court will apply the  
19 doctrine where the plaintiff establishes that there's complete  
20 domination of not only the finances, but of the policy and  
21 business practices in respect to transactions so that the  
22 corporate entity as to this transaction had at the time no  
23 separate mind, will or existence of its own; two, that such  
24 control was used by the defendant to commit fraud or wrong, or  
25 perpetrate a violation of a statutory or other positive legal



1 duty or dishonest and unjust act in contravention of the  
2 plaintiff's legal rights; and, three, that such control and  
3 breach of the duty proximately caused injury or undue loss.

4 Now the court also in that case notes that the  
5 corporate shield will be disregarded where a corporation is  
6 used as a mere shield for the preparation of a fraud, the court  
7 shall disregard the fiction of this separate corporate entity.  
8 It's set forth in the bench memorandum that was provided by  
9 plaintiff that the issue of whether or not this doctrine would  
10 apply to other entities such as a trust has been decided in the  
11 affirmative in the Deckelbaum v. Cooter, Mangold case at 275  
12 B.R. 737 (D. Md. 2001) case. I note that that case also had  
13 been on appeal before in In re Boyer, a matter in which was 145  
14 F.3d 1323, which I believe was an unreported opinion. The  
15 underlying opinion was set forth was reported. I did review  
16 all three of those opinions and do conclude that the issues  
17 that can disregard an entity is not exclusive to corporations,  
18 although that's where the doctrine originated from.

19 So, what do we have here? You know, the question is  
20 that we had a situation where Serv Pro was, not Serv Pro, Serv,  
21 Serv Trust was operating at this time, a relevant time, and  
22 what the evidence presented to the Court shows is that it was  
23 operating merely as a conduit to distribute funds to Mr. Myers  
24 and his wife, Ms. Kelly, in an effort, the Court believes, to  
25 frustrate his creditors in this matter. That Mr. Myers



1 controlled this entity which purpose was to provide for the  
2 education, schooling and housing of the Myers' children.  
3 However, during the relevant period in this case, some \$1.37  
4 million was funneled through that entity to Mr. Myers and/or  
5 his wife, or other entities.

6 Now I note that the majority of it, some 738,000, was  
7 directly paid to Mr. Myers; 434,525 went to his wife, Ms.  
8 Kelly. Some 16,825 went to various courts. Those courts were  
9 for funds that were being paid into escrow which were then  
10 subsequently listed on Mr. Myers' bankruptcy filings as  
11 belonging to him. There were payments to attorneys of \$16,713,  
12 country club membership. There were payments of \$64,527 which  
13 were distributed to Mr. Myers' children's schools and housing;  
14 however, the Court finds that this amount of payment was of  
15 such a de minimis amount given the, in relationship to the  
16 \$1.37 million which was funneled through Serv Trust as to show  
17 that the main goal and purpose of the, of Serv Trust was to  
18 shelter funds from Mr. Myers' creditors.

19 Now what I did go back and I read in great detail was  
20 the opinion in the United States Bankruptcy Court of the, which  
21 was Plaintiff's Exhibit 3, which was the trustee's decision, or  
22 strike that, granting the trustee's complaint denying discharge  
23 to Mr. Myers in Chapter 7 bankruptcy that had been converted  
24 from a Chapter 11. I don't need to go through all of what's in  
25 there, but what struck me is that the Court agreed with the

1 United States trustee that Myers knowingly and fraudulently  
2 made false oaths in his bankruptcy case sufficient to denying  
3 of a discharge, citing to Mr. Myers that Mr. Myers explained  
4 that the other 50 percent owner of Goldsboro, who we, was  
5 undisclosed at the time of his one, or of his 341 meeting, made  
6 capital contributions to Goldsboro that could then be loaned to  
7 the Serv Trust and that money went to the benefit of the  
8 beneficiaries of the trust, is what he testified to.

9           The timing of the loans from Goldsboro to the  
10 execution of the Goldsboro guaranty, combined with Myers  
11 oscitation of his liability to Goldsboro at the 1341 meeting  
12 were sufficient to require a finding of fraudulent intent for  
13 the purposes of Section 727(a)(4). The Court there found it  
14 was not believable that he simply forgot to include the  
15 largest, unsecured creditor in the first of several versions of  
16 his schedules when he had executed a personal guarantee in  
17 favor of that creditor six months prior to the filing of the  
18 bankruptcy and was requesting advances from the creditor up to  
19 and after the filing of his petition.

20           The advances to Serv Trust, which funds were then  
21 made available, and the Court, that court then found that the  
22 funds were then made available to Myers and/or Kelly,  
23 purportedly to pay for the child's education or household  
24 expenses. That opinion also notes that Mr. Myers was adamant  
25 at trial that every payment that he and/or Kelly ever received

1 from Serv Trust was for the benefit of his children. He then  
2 argued that he was always considered the Serv Trust payments to  
3 be loans regardless of how they were classified in the  
4 schedules or what was said at the 341 meeting because neither  
5 he nor Kelly is the beneficiary of Serv Trust.

6 Myers' classification of the payments he and/or Kelly  
7 received from Serv Trust as loans is suspect if, as irrefutably  
8 testified to by Myers, every payment from Serv Trust to Myers  
9 and/or Kelly was for the benefit of their children, it then  
10 appears Serv Trust was serving its intended purpose, i.e.,  
11 providing for the Myers children. Such payments would not be  
12 loans to Myers and/or Kelly. They would have been  
13 distributions to the trust beneficiaries.

14 The Court further goes on to note that Myers  
15 testified at the 341 meeting that Serv Trust can distribute  
16 money for anything to his children's benefit, including food,  
17 clothing and tuition. Myers was adamant that his children's  
18 expenses exceeded any amounts ever distributed on their behalf  
19 by Serv Trust. He admitted that he did not keep a log of the  
20 expenses he paid on behalf of the children and that he  
21 deposited the funds into his own checking account, but  
22 maintained that the tuition expenses alone exceeded any amounts  
23 received from the trust.

24 The Court further noted that Mr. Myers testified that  
25 there were ongoing litigation between Serv Trust and Goldsboro,



1 so he did not what to characterize the advances made from Serv  
2 Trust to Goldsboro as reflected in the Goldsboro's promissory  
3 note as loans. On the other hand, when he testified during his  
4 own cross-examination, he testified that his second-amended  
5 schedule reflected no income because by then there were no more  
6 loans from Serv Trust, there were no more loans from Goldsboro,  
7 and so there was no more income and then I lost my disability  
8 in March of 2016; and I believe Goldsboro made its last loan in  
9 August of 2016. This testimony makes clear that the advances  
10 from Goldsboro to Serv Trust were going to Myers and Kelly.

11           The Court further noted that, in other words, when  
12 Goldsboro was not included in the debtor's bankruptcy case,  
13 Serv Trust was asserting a greater lien on lot six of the sale  
14 proceeds because that would enable Myers to access those funds  
15 through Serv Trust. And so, what I found from the testimony  
16 here is that I, I find it inconceivable that \$1.37 million was  
17 used for the children's education. There's no evidence of that  
18 whatsoever. It is, it is beyond the pale. I find that at his  
19 bankruptcy proceeding, Mr. Myers' explanation of what the funds  
20 were, how they were obtained and what they were for were  
21 contradicted by himself, which notes that during this time that  
22 these funds were being provided to as a way to avoid his  
23 creditors and to avoid payment to those creditors. They were  
24 basically shielding these, these amounts of money from his  
25 creditors.



1 So, I do find, one, that he did have --

2 MR. MYERS: I'm sorry, Your Honor, I thought I wasn't  
3 a party to this proceeding?

4 THE COURT: Sir --

5 MR. MYERS: You're saying it's about me.

6 THE COURT: What I'm saying is I'm deciding whether  
7 or not you were, whether or not Serv Trust is an alter ego.  
8 This is what the abstention from the bankruptcy court is about.  
9 And so, I'm finding that based upon these proceedings --

10 MR. MYERS: You understand, Your Honor, you do  
11 understand the abstention order is irrelevant because I filed  
12 subsequent Chapter 13.

13 THE COURT: I understand that. Sir, I understand  
14 that is your belief, all right? And you can certainly  
15 appeal --

16 MR. MYERS: (Unintelligible).

17 THE COURT: -- that based on that. I will make my  
18 findings here today and you may, and you will do with them with  
19 what you want; but I believe that the subsequent Chapter 13 is  
20 not relevant to the abstention order and I will make that clear  
21 in my holding as I get further along.

22 So, what I do find is that the --

23 MR. MYERS: From the, from Judge Lipp, the order  
24 you're reading from where he makes a finding of fact that Serv  
25 Trust was established by my mother in 2010 for the benefit of

1 my five children, the finding of fact --

2 THE COURT: I see that finding, sir. What I'm  
3 finding is that based on the evidence here and the amounts of  
4 money that was transferred through that organization to you and  
5 your wife personally, that the, whether it was established for  
6 that purpose, it was not utilized for that purpose. It was  
7 rather utilized to defraud your creditors and to defraud the  
8 bankruptcy court and to defraud the trustee.

9 MR. MYERS: I --

10 THE COURT: Sir --

11 MR. MYERS: How could I defraud my creditors when  
12 I've never owned any property that was put into Serv Trust?  
13 How could it defraud my creditors when they and Offit Kurman  
14 represented me and Serv Trust before the, it got there.

15 THE COURT: All right, sir.

16 MR. MYERS: How could it defraud my creditors if it's  
17 a Maryland common law centric trust and the law in Maryland is  
18 clear that nothing I do as a trustee could ever affect the  
19 corpus of that trust?

20 THE COURT: All right. Well, I disagree. One, is I  
21 found that it is a statutory trust based on your filings in  
22 this court; and so, based on that --

23 MR. MYERS: That, that's --

24 THE COURT: -- that's where we are.

25 MR. MYERS: -- to intervene. Nothing I do, Your



1 Honor, and you know this, nothing I do as a trustee can change  
2 that trust document.

3 THE COURT: Well, I --

4 MR. MYERS: And I must say --

5 THE COURT: -- it does when you, it does when you  
6 perpetrate fraud and that's what I'm getting to here. So, I  
7 would ask if you just please --

8 MR. MYERS: You're just finding --

9 THE COURT: -- I'm making my findings --

10 MR. MYERS: -- you're making findings of fraud?

11 THE COURT: I'm making findings that you perpetrated  
12 and used this, you used the, that the Serv Trust was used to  
13 perpetrate a fraud, yes, that's what I'm finding.

14 MR. MYERS: On who?

15 THE COURT: On the bankruptcy trustee in this case.

16 MR. MYERS: He never brought that claim.

17 THE COURT: He is here. He made that claim in court  
18 today. So --

19 MR. MYERS: Well, it's too late. He's already past  
20 his time to make that claim; and, by the way, if you read in  
21 that order, you will find that Judge Lipp said that I did not  
22 transfer any property to anybody fraudulent.

23 THE COURT: All right.

24 MR. MYERS: She denied the trustee's claim on that  
25 count.



1 THE COURT: All right. Well, what I'm finding here  
2 is that based on the evidence that was presented to me today,  
3 that I've seen that it's rather clear that the monies that were  
4 sent through the trust to you and your wife personally, which  
5 were --

6 MR. MYERS: Yeah.

7 THE COURT: -- greater than a million dollars, was --

8 MR. MYERS: Yeah?

9 THE COURT: -- used in order to shield those funds  
10 from your creditors.

11 MR. MYERS: What creditors?

12 THE COURT: And, and, therefore --

13 MR. MYERS: What creditors?

14 THE COURT: -- and, therefore, I am going to find  
15 that --

16 MR. MYERS: Well, you haven't identified a creditor.

17 THE COURT: Sir, I'm not here to argue with you. I'm  
18 giving my opinion. So, I ask that you --

19 MR. MYERS: It has to be paid from, in fact, in the  
20 King party admittedly have no claim against me; and the  
21 bankruptcy court has found that. And Goldsboro has nothing but  
22 a guarantee from me. I owe Goldsboro nothing. So, how did I  
23 defraud anybody?

24 THE COURT: All right.

25 MR. MYERS: You, sir, are, this is disgraceful. This



1 is a common law centric trust that the bankruptcy court found  
2 was established by my mother in 2008.

3 THE COURT: Well, what I'm going to do here is, what  
4 I'm going to do here is when you get back, you're going to go  
5 right back to that same bankruptcy court and then you can  
6 make --

7 MR. MYERS: I'm going to the bankruptcy court.

8 THE COURT: Well, going back --

9 MR. MYERS: I'm going to Florida where this case  
10 currently is which you ignored --

11 THE COURT: Well, this --

12 MR. MYERS: -- that order.

13 THE COURT: This case is currently in Maryland also,  
14 sir; and so, you can make your arguments in Maryland or you can  
15 make your arguments -- I'm going to leave it up to the  
16 bankruptcy courts as to how to deal with this case; and so, as  
17 I go through my findings here, I find that it would be under an  
18 alter ego --

19 MR. MYERS: It sounds like --

20 THE COURT: -- situation.

21 MR. MYERS: This case sounds like a lot of findings  
22 about me when the case went, when the claims against me are  
23 stayed. You just said you made a finding of fraud against me.

24 THE COURT: Well, that, that, money went through  
25 that, that entity, Serv Trust, were used to defraud. So, the

1 entity Serv Trust was used as a fraudulent vehicle and,  
2 therefore, it's going to be, its, its trust will be disregarded  
3 and I will find that it is an alter ego or that --

4 MR. MYERS: There is --

5 THE COURT: -- it was used to, was used to perpetrate  
6 a fraud.

7 MR. MYERS: There is no law in Maryland that allows  
8 alter ego for a common law centric trust.

9 THE COURT: Well, sir, first, I found that, one, I  
10 disagree with you; and, secondly, I find as a matter of  
11 judicial admission in this case that it is a statutory trust  
12 that you set forth and signed a document submitted to this  
13 Court identifying as such. So, if you want to argue that it's  
14 different, that ship has sailed. I'm, you're bound by the  
15 representations of the Court. So --

16 MR. MYERS: Okay. I did not change that trust  
17 document. No trustee can come into court, sign a paper and  
18 make that trust document something it isn't.

19 THE COURT: Okay.

20 MR. MYERS: And by the way, where are the  
21 beneficiaries in this case? You have none of them before you.  
22 They weren't served. It's a common law trust.

23 THE COURT: Well, if, sir --

24 MR. MYERS: So, you don't have the parties before you  
25 to do this.

1 THE COURT: Well, sir --

2 MR. MYERS: This entire exercise, with all due  
3 respect, Judge, is a hack job by the trustee because Judge  
4 Albright made a ruling at a motion to dismiss that the contract  
5 that Mr. King signed is enforceable and that, yes, he did  
6 commit fraud if what we alleged was true. And Mr. VerStandig  
7 decided one month later for the first time after six years of  
8 doing business with Mr. King that, oh, now all of a sudden  
9 there's an alter ego claim. Never before did that come up.  
10 Why don't you do your job, sir, and look at the facts and look  
11 at what's going on here. There's a crime being committed here.  
12 Did you look at the facts of what was attached to my motion to  
13 remove where they altered tax returns? Did you look at that  
14 email, sir?

15 THE COURT: Well, sir, I, all I note is that the  
16 motion to remove was denied, or was remanded back, so --

17 MR. MYERS: I'm not asking that. I'm asking did you  
18 look at the email attached where the King party --

19 THE COURT: Sir, I'm not --

20 MR. MYERS: -- fraudulently submitted a tax return in  
21 this case in your court?

22 THE COURT: All right. Well, like I said, I'm, all I  
23 know is that the matters before me, I'm making my ruling based  
24 on the evidence that was before me today.

25 MR. MYERS: Right. You don't have the evidence. You

1 have a pack of lies is what you have.

2 THE COURT: Okay.

3 MR. MYERS: And by the way, Judge, I didn't hear  
4 where you said you ruled on my motion to dismiss for lack of  
5 subject matter jurisdiction because you have no order from the  
6 bankruptcy court allowing Mr. King to sue the Chapter 7  
7 trustee.

8 THE COURT: All right. Well, I, I had previously  
9 denied that. If I hadn't, I'll deny it now. There is, I find  
10 that I have subject matter jurisdiction; and if I'm wrong about  
11 these things, Mr. Myers, then it's great, the subject matter,  
12 it was subject matter jurisdiction --

13 MR. MYERS: Okay. Well, I --

14 THE COURT: -- cannot be waived, period; and so, if  
15 bankruptcy court, or another court base your determination --

16 MR. MYERS: That is one --

17 THE COURT: -- that I don't have jurisdiction, then  
18 all of this is a nullity. Similarly --

19 MR. MYERS: One question. Is there anywhere in the  
20 record of this case an order, written order entered by the  
21 bankruptcy court, not an order of abstention, a written order  
22 that permits Mr. King to sue the Chapter 7 trustee?

23 THE COURT: Well, if I'm, I have an order of  
24 abstention that says I'm to make this determination as to alter  
25 ego.



1 MR. MYERS: No.

2 THE COURT: And that's what I'm making.

3 MR. MYERS: Is not going to make any determine -- it  
4 doesn't say that Mr. King can sue the Chapter 7 trustee.  
5 Without that order, in your opinion --

6 THE COURT: Well, I think, I think that --

7 MR. MYERS: -- you have --

8 THE COURT: -- I think that's for the Chapter 7  
9 trustee to raise and is their issue, and you don't have  
10 standing to raise that issue. If you think it's a  
11 jurisdictional issue, then, again, Mr. Myers, you're going to  
12 have an opportunity to probably litigate this all back into  
13 bankruptcy court here --

14 MR. MYERS: Well, it's --

15 THE COURT: -- because what I will find and, and,  
16 sir, I'm going to ask you to just let me finish my ruling here  
17 so that I can make sure I get the facts that I wish to on the  
18 record.

19 MR. MYERS: Well, they're not, all deal with me and  
20 (unintelligible).

21 THE COURT: Okay. So, I do find that the second  
22 factor of alter ego was applicable, that it did, defendant did  
23 commit a fraud or wrong. And like I said, I also find that the  
24 use of the trust here was a mere shield for the preparation of  
25 fraud.

1           Lastly, I do note that such control did cause injury  
2 in the sense that the creditors of Mr. Myers were and, quote,  
3 strike that. That the bankruptcy trustee was deprived of  
4 potential assets in the bankruptcy estate. So, based on those  
5 findings, I do find that Serv Trust is either an alter ego or  
6 its forms should be disregarded as a perpetrator, as, as it was  
7 used to perpetrate fraud.

8           Based upon that finding, I do find under the order of  
9 abstention that the claims against Serv Trust here, as well as  
10 those against Mr. Myers, are stayed pursuant to the bankruptcy  
11 that's pending in Maryland at this time. Therefore, I will  
12 make a finding, a declaratory judgment that Serv Trust is a,  
13 the alter ego of the, of Mr. Myers in this case; and as such,  
14 the matter is stayed as to this litigation going forward at  
15 this time.

16           All right. Let me ask counsel if you can prepare a  
17 proposed order of declaration for the Court?

18           MR. VERSTANDIG: Thank you, Honor. We may email it  
19 to chambers, I assume?

20           THE COURT: Sure and send it to Mr. Myers, too --

21           MR. VERSTANDIG: Yes.

22           THE COURT: -- for his view.

23           MR. VERSTANDIG: Thank you. Should we do so prior to  
24 emailing it to chambers --

25           THE COURT: Yeah, why don't we just do that? Just,

1 well, just mail it to Mr. Myers with chambers.

2 MR. VERSTANDIG: Okay. Thank you. We will cc him on  
3 the --

4 THE COURT: All right.

5 MR. VERSTANDIG: -- chambers.

6 THE COURT: Is there, is there any clarification of  
7 my ruling that you need?

8 MR. VERSTANDIG: I appreciate your ruling. Thank  
9 you, Your Honor.

10 THE COURT: All right. Anybody?

11 MR. PELLETIER: Well, I'm here, Your Honor --

12 MR. MYERS: Well, I do --

13 MR. PELLETIER: -- this is Eric Pelletier for 6789  
14 Goldsboro Road.

15 THE COURT: Okay. And just --

16 MR. MASTRO: Nothing, Your Honor, other than just to  
17 note for the record that the trustee didn't file an opposition  
18 to Mr. Myers' motion to dismiss for lack of subject matter  
19 jurisdiction and that's in the record as well.

20 THE COURT: Okay. All right. All right. Great.  
21 Thank you all very much.

22 MR. PELLETIER: Thank you, Your Honor.

23 MR. VERSTANDIG: Thank you, Your Honor.

24 THE COURT: Have a good day. Oh, based on that, like  
25 I said, I abstain the rest of the other, other matters.



1 MR. VERSTANDIG: Yes, Your Honor.

2 THE COURT: Oka.

3 THE BAILIFF: All rise.

4 THE CLERK: The Court stands in recess.

5 (The proceedings were concluded.)

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Digitally signed by Tanja G. Gish

DIGITALLY SIGNED CERTIFICATE

**eScribers, LLC.** hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings in the Circuit Court for Montgomery County in the matter of:

Civil No. 436977V

BRIAN KING, ET AL.

v.

SERV TRUST, ET AL.

By:



TANJA G. GISH  
Transcriber

